

REPORT ON THE SIGNIFICANT ACTIONS OF THE OFFICE OF PERSONNEL MANAGEMENT DURING 1982



DECEMBER 1983

**A REPORT OF THE U.S. MERIT SYSTEMS PROTECTION BOARD
OFFICE OF MERIT SYSTEMS REVIEW AND STUDIES**

MERIT PRINCIPLES GOVERNING THE FEDERAL PERSONNEL SYSTEM

The Civil Service Reform Act (Pub. L. No. 95-454, 92 Stat. 111 (1978)) requires that Federal personnel management be implemented consistent with the following merit principles:

(1) Recruitment should be from qualified individuals from appropriate sources in an endeavor to achieve a work force from all segments of society, and selection and advancement should be determined solely on the basis of relative ability, knowledge, and skills, after fair and open competition which assures that all receive equal opportunity.

(2) All employees and applicants for employment should receive fair and equitable treatment in all aspects of personnel management without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.

(3) Equal pay should be provided for work of equal value, with appropriate consideration of both national and local rates paid by employers in the private sector, and appropriate incentives and recognition should be provided for excellence in performance.

(4) All employees should maintain high standards of integrity, conduct, and concern for the public interest.

(5) The Federal work force should be used efficiently and effectively.

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be --

- (a) protected against arbitrary action, personal favoritism, or coercion for partisan political purposes, and
- (b) prohibited from using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employees reasonably believe evidences --

- (a) a violation of any law, rule, or regulation, or
- (b) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

It is a prohibited personnel practice to take or fail to take any personnel action when taking or failing to take the action results in the violation of any law, rule or regulation implementing or directly concerning these merit principles.

The Merit Systems Protection Board is directed by law to conduct special studies of the civil service and other Federal merit systems to determine whether these statutory mandates are being met, and to report to the Congress and the President on whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

These studies, of which this report is one, are conducted by the Office of Merit Systems Review and Studies.

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THE CHAIRMAN



U.S. MERIT SYSTEMS PROTECTION BOARD
1120 Vermont Avenue, N.W.
Washington, D.C. 20419

Sirs:

In accordance with section 202(a) of the Civil Service Reform Act of 1978 (5 U.S.C. 1209(b)), it is my honor to submit the third annual report of the Merit Systems Protection Board on the Significant Actions of the Office of Personnel Management (OPM).

This report covers the significant actions of the OPM during calendar year 1982 and some related actions taken during 1983. It is also supported by statistical data from the Board's 1983 "Merit Principles Survey." I think you will find it relevant to current concerns about a number of key civil service issues including OPM's impact on the merit system, the government's ability to recruit and retain a quality work force, the potential for abuse in the Senior Executive Service, and the ability to provide Federal employees with incentives for good performance.

Respectfully,


Herbert E. Ellingwood

The President of the United States
The President of the Senate
The Speaker of the House of
Representatives

Washington, D.C.

PREFACE

This is the third annual report on the significant actions of the Office of Personnel Management (OPM) prepared by the Office of Merit Systems Review and Studies of the Merit Systems Protection Board (MSPB). This report, required by the Civil Service Reform Act of 1978, examines programs and policies initiated by OPM during 1982 and some related 1983 actions to see if they resulted in promoting merit principles and preventing prohibited personnel practices. To develop this report, the study team analyzed reports, records, and other data gathered from agencies, OPM, and outside groups. They also undertook the major task of developing and administering a nationwide survey questionnaire. Through this Merit Principles Survey, the study team was able to collect information directly from agency officials and employees at all levels of the work force.

As with any complex task, this report is the product of many people, all of whom gave many hours of their own time and a great deal of extra effort to the project. The following served as members of the multi-disciplined MSRS study team: Frank Lancione who had the yeoman's task of serving as the project manager responsible for the overall coordination and writing of the report; Valencia Campbell, Dr. Joel David Chananie, and Judith James, who did the programming and computer analysis of the statistical questionnaire data; Susan Schjelderup who analyzed the contrasting views of OPM's impact on the merit system in Chapter 2; Cynthia Shaughnessy who prepared the analysis of poor performance related issues in Chapter 3; Rosemary H. Storey and Dr. Antonette Marzotto who worked on the Senior Executive Service (SES) related issues in Chapters 3, 4, and 5; John Palguta who analyzed the impact of the abolishment of the Professional and Administrative Career Examination (PACE) in Chapter 5; T. Paul Riegert who worked on the follow up on OPM responses to previous Board recommendations in Chapter 6; and Dr. Leonard Cohen who provided background research for various segments of the report. In addition, Martha Schneider and Anna Maria Farias of the Board's Office of General Counsel provided invaluable assistance by summarizing the MSPB decisions involving SES appointees in Chapter 5.

The typing, editing, and processing of the large amounts of information generated were key to the success of this project. These support services were provided by Joyce Campbell, Patricia Carpenter, Cora Gibson, and Barbara G. Powell. Elaine Latimer prepared all the graphics and layout for the charts and tables in the report.

This report provides a comprehensive analysis of complex major personnel issues in 1982 and 1983 which will continue to be the subject of concern in the Federal personnel community in the future.

Dennis L. Little
Director, Office of Merit Systems
Review and Studies

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CHAPTER 1

INTRODUCTION AND OVERVIEW

A. BOARD AUTHORITY FOR REVIEWS OF OPM ACTIONS

In creating the Merit Systems Protection Board (MSPB), Congress gave MSPB broad authority to review the policies and programs of the Office of Personnel Management (OPM). As a part of this mandate, the Board is required to report annually to Congress and the President on how OPM's "significant actions" are affecting the merit system.

This is the third Review of OPM Significant Actions prepared by the Board. It examines OPM actions during 1982, and some related 1983 actions. The Board has broad latitude to define which of OPM's actions are "significant" for the purposes of this annual oversight study. In identifying issues for this year's report the Board's study team looked at the OPM regulatory initiatives, program actions, and resulting trends in public personnel policy which have the greatest potential for impact on the statutory merit systems principles and prohibited practices which Congress formally defined in the Civil Service Reform Act of 1978 (CSRA). These statutory objectives and prohibitions taken together define both what the Federal merit system should strive to achieve and those practices it must seek to eliminate or avoid.

B. OVERVIEW OF OPM SIGNIFICANT ACTIONS IN 1982

As Rufus Miles has observed: " . . . there is no such thing as pure objectivity in the arena of budgeting or public policymaking in general. Every person has a function to perform and that assigned responsibility markedly influences one's judgment."¹ Miles' insight is especially relevant in assessing OPM's impact on the merit system. The policies and programs of the Office of Personnel Management are perceived differently by agency officials, union officials, and OPM officials. In Chapter 2, **Contrasting Views of OPM's Impact on the Merit System**, the study team examines what representatives of three distinct groups believe were OPM's most significant actions during 1982, and what they see as the priority items for Congressional and Executive Branch action to improve the merit system over the next five years.

In July 1982, the Director of OPM and the Deputy Director of the Office of Management and Budget (OMB) sent a joint memorandum to agency heads identifying performance appraisal as the "primary personnel management tool

¹Rufus Miles, Origin and Meaning of Miles' Law; Public Administration Review, Vol. 38, No. 5, September/October 1978, pp. 399-403.

available for good administration."² They asked agency heads to make a personal commitment to using the performance appraisal system to ensure that the "primary objectives" of the President were carried out. In the latter half of 1982, OPM was at work laying the foundation for its major proposals, first published in the Federal Register in March 1983,³ for instituting what it called "performance management" and "performance based incentive systems" for employees at all levels of the work force. OPM's proposals have generated much controversy. At this time, both Congress and the courts have intervened to stop their implementation. In **Chapter 3, Incentives for Performance**, the study team examines what was going on in the work force in the period leading up to OPM's announcement of its proposals. The topics examined include: the perceived linkage between pay and performance, the experiences of managers and employees with performance appraisal, merit pay, and actions supervisors are taking to deal with poor performers.

²Dr. Donald J. Devine, Director, Office of Personnel Management, and Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget, "Memorandum for Heads of Departments and Agencies," Subject: "Performance Appraisal," July 20, 1982, p. 1.

³OPM has issued three versions of performance management regulations. The first set of proposed regulations was issued in the Federal Register on March 30, 1983. These were subsequently withdrawn by OPM in late May 1983 and a second set of proposed revisions was issued in the Federal Register on July 14, 1983. These proposed regulations were further revised and published as "final rules" in the Federal Register on October 25, 1983. However, Public Law 98-151, signed into law by the President on November 14, 1983, prohibited the expenditure of funds for the implementation, promulgation, or enforcement of the March 30 and July 14 regulations during FY 1984. It did not, however, include the October 25 regulations. On November 21 the Director of OPM announced that these regulations would become effective on November 25, 1983, for agencies other than OPM. This was based on the OPM General Counsel's opinion that although Public Law 98-151 barred the expenditure of funds for the implementation of the regulations, no funds were necessary for the regulations to be issued. The U.S. District Court granted a twenty-day Temporary Restraining Order (TRO) on November 23, 1983, at the request of the National Treasury Employees Union (NTEU) to prohibit the implementation of these regulations. On December 30, 1983, the U.S. District Court concluded that the weight of the legislative history supported the inference that congressional intent was to include the October 25 regulations and acted to prevent OPM from implementing the October 25 regulations (NTEU v. Donald Devine, U.S. District Court, District of Columbia, Civil Action No. 83-3322, December 30, 1983).

Another important development during 1982 was the incidence of several widely publicized cases in which it was alleged that agencies were using their authority to reassign Senior Executive Service (SES) members geographically to force career executives to resign. In **Chapter 4, Managerial Discretion and Employee Protections in the SES**, the study team presents an overview of the cases that have been appealed to the Merit Systems Protection Board involving alleged arbitrary personnel actions against SES executives. Based on findings from the Board's Government-wide Merit Principles Survey, the study team also looks at whether SES members have witnessed or personally experienced any of a wide range of improper personnel actions.

Ensuring the quality of employees selected is one of the central purposes of a merit personnel system. In 1982 the Office of Personnel Management announced that it was abolishing the Government's largest entry-level employment test, the Professional and Administrative Career Examination (PACE). As an interim replacement, OPM established a new Schedule B recruitment authority which agencies can apply for on a delegated basis. In **Chapter 5, Recruiting and Retaining a Quality Work Force**, the study team examines the impact of the abolishment of the PACE and agencies' early experience with the new authority during 1982. Chapter 5 also explores agencies' views about the implications of this new approach for the quality of the Federal work force.

On the opposite end of the spectrum from ensuring quality entry-level candidates, the merit system must also be able to develop and maintain a high quality cadre of senior executives and high level technical employees. Another issue that was prominent in 1982 was the widespread concern that the Federal Government faced a "brain drain" of talent from its executive and technical ranks. Chapter 5 also follows up on the investigation of this issue begun in the Board's Report on OPM Significant Actions During 1981.⁴ It presents survey data on potential turnover in these often difficult-to-recruit-for occupations, and examines SES bonuses and compensation.

In addition to these examinations of specific issues, **Chapter 6, OPM Action and Inaction on Previous Board Recommendations**, examines what OPM has done to address problems identified in our oversight reports on OPM actions during 1980 and 1981.

C. STUDY DESIGN

In collecting information for this report, the study team has drawn on a variety of sources. In the spring of 1983, the Board addressed detailed interrogatories to the heads of the twenty largest Federal departments and independent agencies. Each department and agency was asked to describe their experience with OPM programs and regulations during 1982, and present their sense of the steps necessary to improve the merit system over the next five years. In July 1983 the Board administered a nationwide questionnaire survey titled, the "Merit Principles Survey," to a sample of 7,861 Executive Branch

⁴U.S. Merit Systems Protection Board, Report on OPM Significant Actions During 1981 (December 1982), pp. 16-22.

employees.⁵ The survey respondents provided representative Government-wide data on the attitudes and experiences of employees at all levels of the work force on issues related to the merit system. The survey questions covered OPM activities during 1982 and the first half of 1983.

To gather data on the similarities and differences between OPM and union views of OPM's impact on the merit system, in November 1983 the Board's Office of Merit Systems Review and Studies sponsored a roundtable session, "OPM Significant Actions: A Labor-Management Dialogue." In this session, representatives from Federal agencies were asked to analyze OPM actions during 1982 from the standpoint of the merit system and to lay out the priority items for OPM and Congressional action over the next five years. The same questions were addressed to a panel of top officials from OPM. The session was fully transcribed and panelists' formal statements and responses to questions were analyzed for this report.

In addition to this original research, the study team examined recent studies by the General Accounting Office (GAO) and the Office of Personnel Management as well as other public and private research organizations. This report notes, where applicable, how the team's findings compare with the findings in the studies of these other groups.

D. SUMMARY OF CRITICAL QUESTIONS AND SIGNIFICANT FINDINGS IN EACH CHAPTER

The critical questions and significant findings for each chapter are summarized below:

Chapter 2. Contrasting Views of OPM's Impact on the Merit System

This chapter looks at how representatives from the three main "players" in the area of Federal personnel--OPM, agencies, and unions--view OPM's impact on the merit system in 1982 and examines their suggested priorities for change over the next five years. All representatives identified changing the current pay and benefits system as a major priority for Executive and Congressional action in the next five years. There were strong differences between the union representatives and OPM on the direction that change should take.

OPM cited its introduction of greater cost-sharing to avert large deficits in the Federal Employee Health Benefits Program as a major accomplishment during 1982. Agencies tended to view these changes in terms of the negative impact they had on their employees. OPM cited its issuance of proposals for instituting performance management as a major accomplishment during 1983. There was reasonably strong support among agencies commenting to the Board that changes were needed in the structure of incentives for performance even though there was not total agreement with OPM's specific proposals.

Chapter 3. Incentives for Performance

This chapter examines how well the various performance measurement and reward systems created by the Civil Service Reform Act were working in the period preceding OPM's attempt to initiate a new Government-wide system for

⁵See Appendix A for a detailed discussion of the methodology of the survey.

performance management. There is currently little perceived linkage between pay and performance. A majority of employees (59%) feel they will be recognized as good performers if they work harder in their present job. But, few think working harder in their present job will lead to more pay (17%), or a better job (21%).

Performance appraisal and merit pay are two of the major elements in OPM's proposed performance management system. There are problems in both programs, but some positive indications as well. The more that performance ratings are used as the basis for pay setting and other management decisions, the more crucial it is that they are both accurate and perceived as accurate by employees. Employee confidence in performance ratings given during late 1982 and the first half of 1983 appears relatively high. About six out of ten employees (61%) said their last performance rating gave a fair and accurate picture of their actual performance.⁶ Thirty-eight percent said having their performance rated made them try to do a better job.

Among employees who did not feel performance appraisal motivated them to do better (36%), the most frequently identified reasons were:

- a. If you are rated high, nothing happens (23%)⁷
- b. There is a limit on the number of people who can receive high ratings (18%)
- c. Working for personal pride was more important than external motivators (14%)⁸

In the merit pay program, agencies reported that the system worked better in 1982 than it did in 1981. However, fundamental structural problems remain. A majority of the agencies commenting to the Board identified funding and problems related to lack of universal coverage of GS 13-15 employees under merit pay as priority areas for corrective action by OPM and the Congress.

⁶It should be noted that employees' acceptance of their ratings is not an objective measure of the actual accuracy of those ratings. For example, a rating that was improperly high would be more likely to be accepted than one which was accurate but indicated unsatisfactory performance.

⁷This is 23 percent of the 36 percent who said performance appraisal was not a motivator.

⁸Survey participants were asked to select one factor from a list of potential problems which best explained why performance appraisal did not make them try to do a better job. Twenty-eight percent checked "other" and wrote in comments. The study team analyzed a random weighted sample of comments. Over one-half (56%) cited personal pride as being more important than performance appraisal or other external controls in the decision to try to do a better job.

Employee support for merit pay as currently operated was low. Merit pay employees overwhelmingly support the general concept of having their pay tied to their performance (88%). Yet, only about one in four (26%), say they would voluntarily choose to be covered under their agency's merit pay system.

While employees' general perceptions of merit pay are unfavorable, the perceived pay-performance linkage was somewhat higher among merit pay employees than it was for the rest of the work force. Thirty-three percent of merit pay employees said they would be likely to receive more pay for working harder in their present jobs, compared to only 17 percent of the general work force.

Senior executives in the Merit Principles Survey expressed dissatisfaction with the limited numbers and amounts of SES bonuses available during 1982 and early 1983. Moreover, they believe that bonuses were being distributed disproportionately to executives at the top of the agency, and that executives working on low visibility projects had little chance of receiving a bonus.⁹

Working to change poor performance is as essential as rewarding good performance. The Merit Principles Survey data show a much greater level of activity by supervisors to deal with poor performers than is indicated by the record of formal performance-based removal actions. Over 40 percent of supervisors in our survey said they had personally supervised employees who did not perform at a satisfactory level during the past two years.

The majority of these supervisors said they took action to deal with these poor performers and that they would be willing to recommend formal action against poor performers if informal measures failed. The most frequent approach used when dealing with poor performers was informal counseling.

Chapter 4. Managerial Discretion and Employee Protections in the SES

This chapter examines whether the broad discretion granted to agency heads to manage their executive teams is being abused. We found no evidence of widespread abuse of the managerial flexibilities in the SES system. SES executives are concerned about the potential for such abuse. However, relatively few executives reported either seeing or directly experiencing any arbitrary or improper personnel actions against SES members during 1981-1982.

Chapter 5. Recruiting and Retaining a Quality Work Force

Chapter 5 looks at whether abolishing the Professional and Administrative Career Examination (PACE) has affected the Government's ability to attract quality entry-level employees. The study team found that reduced hiring has cushioned the potentially negative impact of OPM's abolishment of the PACE and limited agency experience with the new Schedule B authority which replaced it. Agency officials expressed considerable concern, however, over the potential for negative impact on the merit system.

⁹Our survey data was collected prior to the raise in the limitations on bonuses which is discussed in Chapter 3.

The new Schedule B authority provides more flexibility for targeted recruitment to achieve affirmative action goals, but agencies feel it is incomplete. Candidates hired under the authority must go through a second stage of formal competition before they can move into regular (i.e., competitive) civil service jobs, or receive promotions beyond GS-7. Responsible OPM officials, however, do not anticipate any problems with future conversions. As alleged with the PACE, agency procedures developed to implement the new authority may not be able to meet the requirements of the Uniform Guidelines on Employee Selection Procedures.

Chapter 5 also looks at whether the Senior Executive Service is providing incentives for attracting and retaining competent executives. Despite what a majority of executives say is the failure of the SES to provide a meaningful compensation system, the Government is unlikely to face large across-the-board losses of executive talent in the near future. The executives the Board surveyed say the primary reason they will stay in Government is their belief in the work that they do.

Chapter 6. OPM Action and Inaction on Previous Board Recommendations

Chapter 6 examines what steps OPM had taken in response to recommendations in the Board's first two oversight reports. OPM has taken appropriate action with respect to monitoring the movement of noncareer employees into career positions during political transitions, and problems agencies faced earlier in getting timely information on personnel policy guidance and decisions. OPM has action currently underway to deal with problems the Board identified in the areas of delegations of authority, labor-management relations, and costs related to employee appeals procedures.

OPM has taken action or has action underway in several other areas in which the study team feels the ultimate outcome of OPM's action warrants continued attention by the Board and other oversight bodies. These areas include: OPM's actions to ensure compliance with personnel regulations and merit principles, assessing the impact of performance appraisal on productivity, addressing morale problems in the Federal work force, and problems related to pay for executives and those midlevel employees covered under merit pay.

E. RECOMMENDATIONS

Based on the findings in this report, the following are recommended actions for policymakers to take to improve the merit system.

1. Congress and OPM should review Federal pay and benefits with special emphasis on developing a permanent staff retirement plan for new employees. OPM, agencies, and the unions which commented to the Board, all identified revision of the current pay and benefits system as a priority need. The development of a permanent alternative staff retirement plan for new Federal employees hired after January 1, 1984, should be given particular attention.¹⁰

¹⁰A temporary relief measure enacted as part of Public Law 98-168 on November 29, 1983, provided that new employees hired after January 1, 1984, will be required to make a total contribution to retirement of seven percent of salary. This seven percent contribution will be divided as follows: 1.3 percent for civil service retirement and 5.7 percent for social security.

In the Board's survey, employees identified the current Federal retirement system as the most important reason for continuing to work for the Government (71%). Likewise, the survey response "proposals to change current Federal retirement system" was identified as the strongest reason for leaving Government (69%). This confirms the general belief that the previous civil service retirement system was one of the major attractions of Federal employment. If the permanent retirement system which eventually will be developed for individuals hired after January 1, 1984, is not desirable from the standpoint of employees, the Government will have lost one of its most important incentives for attracting and retaining quality employees. (See Chapter 2.)

2. Congress and OPM should continue the current reexamination of incentives for performance. The Board's survey data show that there was very little perceived linkage between pay and performance during 1982 and the first half of 1983. Employees had very little expectation that working harder would be rewarded tangibly through higher pay, promotion, or assignment to a better job. It must be noted that extrinsic benefits such as monetary awards, etc., are not the only meaningful incentives. Recognition must be given to the intrinsic factors which motivate achievement as well. For example, the employees we surveyed identified "the work itself" (i.e., the duties they performed) as the most important nonmonetary reason for continuing to work in Government (63%). As discussed above, survey respondents also identified personal pride as an important factor in their motivation to try to do a better job. (See Chapter 3.)

3. Congress and OPM should address the funding and coverage problems in the merit pay program. The majority of agencies commenting to the Board identified problems in the funding for the merit pay program. Agencies stated that during 1982 some merit pay employees still received smaller increases than employees with comparable ratings who were paid under General Schedule rules. OPM has proposals in its October 25, 1983 performance management regulations which are intended to guarantee merit pay employees parity with General Schedule employees in the pay-out process. A provision of this type could help alleviate the disparities caused by not having all GS 13-15 employees under merit pay. OPM also proposes augmenting merit pay with cash awards. While the study team does not endorse any specific proposals, changes are needed to overcome the funding and coverage problems if merit pay is to achieve its goal of motivating and rewarding excellence. (See Chapter 2.)

4. OPM and agencies should improve data collection on the extent of poor performance and actions taken to deal with it. The Board's Report on OPM Significant Actions During 1981 discussed the effects of the poor public image of Federal workers on employee morale. Part of the poor image is the belief that when Federal employees perform unsatisfactorily no action is taken to help them improve, or when necessary, to remove them. The steps that OPM is currently taking to provide greater flexibility in analyzing its Central Personnel Data File will help provide better information on formal performance-based removal actions. However, attitudinal data from the Board's Merit Principles Survey indicate that there is a much greater level of informal activity to help poor performers improve than is reflected by the

available statistics on formal performance-based removal actions. If this phenomenon were documented, it could help dispel the myth that in the Federal system: " . . . it is easier to promote and transfer incompetent employees than to get rid of them."¹¹ OPM currently has a special subsystem to collect performance appraisal data from personnel offices on merit pay employees. As a start on capturing data on management actions short of removal, OPM should consider expanding the merit pay subsystem to gather performance appraisal data on all employees. (See Chapter 3.)

5. OPM should ensure that proper evaluations are begun now on both the Schedule B alternative examining procedures developed by agencies in lieu of the PACE, and on the long-term performance of employees hired under these procedures. These evaluations are needed in order to provide a factual basis for evaluating what positive and negative effects the elimination of the PACE will have on the merit system. At this point, there is not enough experience with the new Schedule B authority to determine what the effects of this changeover will be, but there are a number of potential concerns. In order to prevent and correct present and future problems, agencies will need to begin collecting data now. OPM should coordinate this effort so that the appropriate information is gathered and there is enough standardization in the information to permit analysis of Government-wide trends. (See Chapter 5.)

¹¹Message from the President transmitting a draft of proposed legislation, H.R. Doc. No. 95-299, 95th Cong., 2d Sess. 3 (1978).

CHAPTER 2

CONTRASTING VIEWS OF OPM'S IMPACT ON THE MERIT SYSTEM

A. INTRODUCTION

In summing up his theory of differences in employee attitudes toward organizational goals, Rufus Miles observed: "Where you stand depends on where you sit." As Miles pointed out: "there is no such thing as pure objectivity in the arena of budgeting or public policymaking in general. Every person has a function to perform and that assigned responsibility markedly influences one's judgment."¹ This same phenomenon holds true for assessments of actions which affect the merit system. The policies and programs of the Office of Personnel Management (OPM) are perceived differently by officials in agencies, OPM, and unions.

This chapter examines OPM's policies and programs in two ways. First it compares and contrasts the views of agencies, selected unions, and OPM itself on the effects of OPM's policies on the merit system during 1982. It also examines what these three distinct observers see as the major priorities for OPM and congressional action to improve the merit system in 1984-1989. The second half of the chapter then looks at the views of all three groups with respect to four specific personnel issue areas: recruitment and examination, compensation and benefits, performance management, and reduction in force.

Methodology²

The information for this chapter was obtained through two means. The first method involved a set of written interrogatories directed to the Secretaries and Administrators of twenty Cabinet-level Departments and independent agencies. The second method was a roundtable discussion, "OPM Significant Actions: A Union-Management Dialogue," conducted on November 7, 1983, in Washington, D.C., under the sponsorship of the Office of Merit Systems Review and Studies (MSRS) of the Merit Systems Protection Board. Four major Federal employee unions were invited to participate. Of the four, only the National Association of Government Employees (NAGE) which represents 66,554 employees declined the invitation. Representatives from the National Federation of Federal Employees (NFFE) and the National Treasury Employees Union (NTEU) did participate. They represent 136,583 and 105,342 employees, respectively. The American Federation of Government Employees (AFGE), representing 685,667 employees, had agreed to send a representative but had to withdraw at the last moment. (Additional information is contained in Appendix B to this report.)

¹Rufus Miles has recently retired from his position as senior fellow at the Woodrow Wilson School of Public and International Affairs, Princeton University. He was Chief of the Labor and Welfare Branch of the Bureau of the Budget in the late 1940's when he formulated Miles' Law. When a budget examiner under his supervision, who had been critical of an agency's appropriation request, accepted a job offer in that agency, Miles accurately predicted that the examiner would soon become a strong advocate of that agency's requests. Rufus E. Miles, Jr., The Origin and Meaning of Miles' Law; Public Administration Review, Vol. 38, No. 5, September/October 1978: 399-403.

²See Appendix A for a discussion of the methodology used to collect and analyze information for Chapter 2.

In this session, three officials represented OPM: Patrick Korten, OPM Executive Assistant Director for Policy and Communications, George Nesterzcuck, OPM Associate Director for Workforce Effectiveness, and James Morrison, Jr., OPM Associate Director for Compensation. Two officials represented the larger Federal employee unions: Catherine Waelder, General Counsel, of the National Federation of Federal Employees (NFFE), and Frank Ferris, Director of Negotiations for the National Treasury Employees Union (NTEU). Therefore, the source for statements in Chapter 2 about the views of agency officials is their responses to the MSRS interrogatories. The source for statements in this chapter about OPM and union officials' views is the MSRS roundtable transcript.

Critical Questions

1. Which three OPM actions during 1982 (and, separately, through June 30, 1983) do agencies identify as having had the most positive effect on the merit system? Which three OPM actions, if any, do agencies identify as having had the most negative effect?
2. What priority actions would you recommend that OPM undertake in 1984-1989 to improve the merit system?
3. What priority actions would you recommend for Congress to consider during 1984-1989 to improve the merit system?

Major Findings

This report will present the responses to the interrogatories and from the roundtable which cover OPM actions in 1982 and future priorities for OPM and Congress. Because of their timeliness and significance, two 1983 issues are covered in this current report: OPM's attempts to implement Government-wide performance management and reduction-in-force (RIF) regulations, and OPM and agency experiences related to RIF.

1. OPM's emphasis on the performance appraisal system in 1982 was perceived by all three groups to have a positive effect on the merit system, although each stated that emphasis differently. OPM officials cited as their agency's most positive action in 1982 the drafting of regulations to implement the new performance appraisal system. Agency officials cited as positive the OPM directives that tied within-grade increases and quality step increases to performance appraisals. Mr. Ferris of NTEU noted approvingly that this emphasis originated with the issuance in December 1980 of Chapter 430 of the Federal Personnel Manual, which describes performance standards and critical job elements. Other OPM actions regarded as helpful are related to classification. There was agreement among nearly one-half of the agency officials that improving position classification accuracy by revising the standards used to determine the proper grade level was a positive action undertaken by OPM in 1982.
2. There was no agreement among the three groups as to which OPM action in 1982 was considered the most negative. A majority of agency officials responding to MSRS interrogatories identified OPM's abolishing the

Professional and Administrative Career Examination (PACE) and substituting a new Schedule B appointing authority as the most negative action in 1982. Those officials stated that OPM should develop additional alternatives to the PACE other than the Schedule B authority.³

3. Changing the structure of compensation and benefits for Federal employees was an action identified for priority action by OPM and/or Congress for the period 1984-1989 by agency and OPM officials. In descending order, the items most frequently cited were:⁴

a. Revising the merit pay program to correct problems resulting from inadequate funding and lack of universal coverage.

b. Revising the overall Federal employee compensation and benefits package, including salary, life insurance, health insurance, retirement benefits, and other selected entitlements.

c. Reducing the complexity of pay administration regulations.

4. Among OPM actions during 1983 that were either underway in 1982 or important to understanding OPM's impact on the merit system, the items most frequently cited were (in descending order of frequency):⁵

a. OPM's efforts to create a Government-wide performance management system. Agencies were about evenly split in their judgments about the July 14, 1983 version of OPM's proposed performance management rules⁶. The chief concern was that the performance appraisal system might not provide an accurate and objective base for other personnel decisions.

b. Changes in the retirement system that reduced benefits for employees. Respondents were particularly concerned about the need for action to eliminate the requirement (in effect at that time) that employees hired after January 1, 1984, make full contributions to both the civil service retirement system and social security.⁷

B. FINDINGS

These findings are discussed in greater detail under the section headings: 2-1. Contrasting Views of OPM's Significant Actions, 2-2. Recruitment and Examination, 2-3. Compensation and Benefits, 2-4. Performance Management, and 2-5. Reduction in Force.

³The dropping of the PACE and agency experience with the new Schedule B authority are discussed in detail in Chapter 5.

⁴Since our questions to agencies on OPM's most significant actions were open-ended, we received a wide variety of responses. It should be noted that none of the actions listed were mentioned by a majority of the agencies.

⁵See note 4, this Chapter.

⁶See note 3, Chapter 1.

⁷See note 10, Chapter 1.

Section 2-1. Contrasting Views of OPM's Significant Actions

Tables 2-1 and 2-2 summarize which actions undertaken by OPM during 1982 were cited by officials from agencies, selected unions, and OPM itself as having had the most significant impact on merit system objectives during 1982. As the tables show, perceptions differ greatly among the three groups. Union officials, for example, cite only one OPM action during 1982 as having had a beneficial impact on the merit system. OPM, by contrast, lists five of its major initiatives during 1982 as having had a positive impact.

As Tables 2-1 and 2-2 show, all three groups found some positive aspect of OPM actions related to performance appraisal. Beyond that, however, there was no strong agreement as to which OPM action could be considered as having the most positive or negative effect on the merit system. In some cases, an action which OPM cited as a positive accomplishment was viewed by the commenting agencies or union officials as having negative consequences. For example, OPM cited its changes to the Federal Employee Health Benefits Program as a positive action. By increasing coinsurance (i.e., increasing deductibles, employees' share of payments), OPM estimates that it was able to forestall a \$1/2 billion deficit in the program. Agency officials, on the other hand, reported the negative effects that the delay of the open season for changing enrollment and increased employee costs had on their employees.

A second example involves OPM's internal reorganizations. OPM officials pointed to OPM's internal changes as bringing about a greater emphasis on basic personnel management programs. Union officials, however, cited the changes made as decreasing the responsibilities of career officials and introducing greater politicization into decisions on personnel matters. Union officials saw OPM as giving less rather than greater attention to the enforcement of regulatory requirements which were important to their members. The views of each group are discussed below.

OPM Officials' Views of OPM Actions During 1982

Mr. Patrick S. Korten, OPM's Executive Assistant Director for Policy and Communications presented OPM's assessment of its most significant actions during 1982 at the MSRS roundtable. As Table 2-1 indicates, Mr. Korten cited as one of OPM's most important actions during 1982 the implementation of performance appraisals based upon performance standards and critical elements as required by the Civil Service Reform Act.

Mr. Korten noted that although the union officials were highly critical of OPM's internal reorganization, OPM leadership felt that the changes made had helped reorient the agency toward basic personnel management objectives. Mr. Korten cited as an example of this reorientation the elimination of the backlog of retirement claims. He also cited OPM's changes to the Federal Employee Health Benefits Program. Another change brought about by OPM internal reorganization which Mr. Korten viewed as positive was the consolidation of responsibility for merit pay, performance appraisal, and incentive awards into a single new Office of Performance Management within OPM. It is this office that developed OPM's performance management regulations.

TABLE 2-1

**OPM ACTIONS IN 1982 CITED AS HAVING A
POSITIVE IMPACT ON THE MERIT SYSTEM**

Actions Cited by OPM:

1. Continuing the Government-wide implementation of the performance appraisal system
2. Reorganizing OPM's internal resources to place greater emphasis on basic personnel management functions, particularly creation of an Office of Performance Management to consolidate and coordinate OPM policy on performance appraisal, merit pay, and incentive awards
3. Developing OPM's performance management program¹
4. Revising the Federal Employees Health Benefits System to prevent a \$1/2 billion projected deficit by providing more coinsurance (increased deductibles and greater cost sharing)
5. Eliminating the backlog of retirement claims

Actions Most Frequently Cited by Commenting Agencies:

1. Improving position classification accuracy by revising standards
2. Issuing directives, associated with the performance management program, that link within-grade and quality step pay increase to performance appraisal
3. Expanding the Interagency Placement Assistance Program (IPAP) and Displaced Employees Program (DEP) to assist employees who have been the subject of reductions in force

Action Cited by NTEU:

Issuing Chapter 430 of the Federal Personnel Manual to guide agency development of critical job elements and performance standards²

¹The statutory deadline for implementation of performance appraisal systems, required by the Civil Service Reform Act of 1978, by agencies was October 1, 1981 (the start of FY '82). The Board's Report on OPM Significant Actions During 1982 looks at calendar year actions. Performance appraisal has been included because throughout Calendar Year 1982, most agencies were still at work refining their performance appraisal systems and resolving problems with the application of their new critical elements and standards. OPM, itself, was also working on its performance management regulations designed to provide a greater linkage between performance ratings and incentives. Union officials' comments on performance appraisal were raised mostly in conjunction with their assessments of OPM's introduction in March and July 1983 of its performance management regulations discussed in note 3, Chapter 1.

²OPM's basic guidance on performance appraisal, Chapter 430, was issued in December of 1980. In 1982, OPM continued its emphasis on the principles in the chapter by issuing a joint letter to agency heads on performance appraisal with the Office of Management and Budget (OMB), and issuing FPM Letter 430-17 which provided additional guidance. Although Mr. Ferris of NTEU praised OPM's issuance of the basic Chapter 430 guidance, he criticized OPM for making these particular quality standards for agency programs discretionary guidance rather than binding regulations.

TABLE 2-2

OPM ACTIONS IN 1982 CITED AS HAVING A
NEGATIVE IMPACT ON THE MERIT SYSTEM

Action Cited by OPM:

None

Actions Cited by Commenting Agencies:

1. Abolishing use of PACE; instituting Schedule B recruiting authority
2. Delaying open season in the Federal Employee Health Benefits Program and increasing employees' costs
3. Withdrawing mid- and senior-level examining authority from agencies
4. Delaying publication of merit pay funding tables

Actions Cited by NFFE and NTEU:

1. Politicizing OPM by:
 - a. creating noncareer regional assistants to oversee career regional office directors
 - b. reorganizing OPM so as to reduce the responsibilities of career executives within OPM
2. Failing to provide guidance to agencies by:
 - a. downgrading OPM's Office of Labor-Management Relations
 - b. failing to provide adequate outplacement assistance to employees during reductions in force
3. Functioning as a political organization rather than as an advocacy body for a highly efficient civil service system
4. Failing to protect SES members from politically motivated geographic reassignments
5. Failing to meaningfully consult with employee unions on policy issues

Agency Officials' Views of OPM Actions During 1982

As Table 2-1 indicates, of all the actions OPM took during 1982, agency officials most frequently cited as positive OPM's development of performance management regulations. These included provisions to link within-grade and quality step increases to performance appraisal. OPM did not formally publish its proposals for implementing the new performance management system until March of 1983. However, the development of these regulations was a significant OPM activity in the latter half of 1982, and their first official announcement on March 30 was fresh in the minds of commenting officials when they responded to the MSRS interrogatories in mid-1983. Other OPM actions cited as having a positive effect on the merit system in 1982 were improving position classification accuracy by revising standards, and expanding the Interagency Placement Assistance Program (IPAP) and Displaced Employees Program (DEP) for employees displaced by reductions in force.

More than any other OPM action in 1982, agency officials cited OPM's abolishment of the PACE as having had a negative impact on the merit system. (OPM's action in abolishing the PACE is discussed in Chapter 5.) They also viewed with disfavor the delay in the open season for the Federal Employee Health Benefits Program and the increases in costs to employees. Another action cited as negative from the standpoint of agency officials was the withdrawal of mid- and senior-level recruitment and examining authority from the agencies.

NFFE and NTEU Officials' Views of OPM Actions During 1982

As Table 2-1 indicates, Mr. Ferris of NTEU praised OPM's issuance of Chapter 430 of the Federal Personnel Manual which established criteria for agency development of the critical job elements and standards used as the basis for performance appraisals. He criticized OPM, however, for making the material in Chapter 430 discretionary guidance rather than mandatory regulatory requirements which agencies would be obliged to follow.

Among negative OPM actions, Mr. Ferris described what he believed was the evolution of the central personnel authority from a neutral body in the 1960's, to a management-oriented body in the late 1970's following civil service reform, to an organization which he feels today has "stepped out of the advocacy role on behalf of any one of the users (i.e., management or employees) and functioned a lot like a political organization."⁸ He cited several instances where he felt that, despite public statements supporting the merit system, OPM had not moved to correct agency failure to meet certain basic personnel management regulations important to his membership, for example, the Uniform Guidelines on Employee Selection Procedures.

⁸U.S. Merit Systems Protection Board, Washington, D.C., Unpublished Transcript, "OPM Significant Actions: A Labor-Management Dialogue," November 7, 1983, pp. 8-9 [hereinafter cited as "roundtable transcript"].

He was also highly critical of what he characterized as a breakdown of meaningful consultation between OPM and unions on policy issues:

If I were an agency official perhaps what I would have seen is that the new Administration, downgraded the labor relations officer at OPM . . . [and] basically locked the unions out of any dialogue at that level of the process that precedes a public issuance as to what OPM wants to do. There has been virtually no contact with us.⁹

Ms. Waelder of NFFE cited three areas where she felt OPM had had a negative impact during 1982: "politicization of decision-making at [OPM] itself; secondly, a lack of guidance to agencies, particularly on RIF's and outplacement actions and third, unaddressed problems in the Senior Executive Service (SES) and merit pay systems."¹⁰ She cited OPM's reorganization of its Office of Labor-Management Relations from a separate office to a subcomponent of the Office of Policy and Communications as indicative of a general downgrading of the role of career executives vis-a-vis political appointees within OPM. She also cited a recent report by the General Accounting Office which she said confirmed that: " . . . agencies are now much more on their own and cannot count on as much OPM advice and assistance as they did in prior years."¹¹ Ms. Waelder stated her belief that OPM did not give agencies sufficient guidance or direct help on providing outplacement assistance for employees affected by reductions in force.

Ms. Waelder's final comment on OPM actions during 1982 was that OPM had failed to protect SES members who were involved in what she perceived as politically motivated geographic reassignments. She stated that she saw this as part of an overall pattern in which " . . . top careerists feel hampered in their ability to manage their staffs as they see fit by the perception that they will be the victims of political reprisal if they do."¹²

Priorities for OPM and Congressional Action in 1984-1989

Tables 2-3 and 2-4 summarize the actions identified for priority action by OPM and Congress over the next five years. Executive and Congressional actions to change Federal pay and benefits were high on the agenda of the OPM and the union officials at the MSRS roundtable. OPM officials emphasized the need for cost reduction measures such as enactment of a voucher plan for health insurance to control escalation of the Government's contribution to the Federal Employee Health Benefits Plan. Agency officials tended to stress changes that would make it easier to implement programs and provide greater flexibility.

⁹Roundtable transcript, p. 17.

¹⁰Roundtable transcript, p. 22.

¹¹Roundtable transcript, p. 23.

¹²Roundtable transcript, p. 24.

TABLE 2-3

ISSUES IDENTIFIED AS PRIORITY ACTIONS FOR OPM IN 1984-1989

Actions Cited by OPM:

1. Implementing performance management and improving the performance appraisal process
2. Developing total compensation packages which are comparable with the private sector including:
 - a. implementing a voucher plan in the Federal Employee Health Benefits Program under which the Government would contribute a fixed amount of money to each employee, rather than the current variable percentage of total plan costs
 - b. reducing the overall costs to the taxpayer of the current civil service retirement system
 - c. developing a supplemental staff retirement plan for employees hired after January 1, 1984, who will be paying into the Social Security System
 - d. reforming the salary setting system which determines pay comparability to eliminate unrealistically high estimates of the gap between Federal and private sector pay.¹
3. Revising the SES bonus pool guidelines and payouts so that 30 to 35 percent of eligible SES executives can receive bonuses
4. Placing greater emphasis on executive and management development programs

Actions Most Frequently Cited by Commenting Agencies:

1. Overhauling the position classification system
2. Replacing the PACE with a system more permanent and comprehensive than the current Schedule B replacement authority
3. Improving the merit pay system by eliminating problems of inadequate funding, and expanding coverage to a larger portion of the work force
4. Simplifying the pay laws to give agencies more flexibility in managing their compensation programs (e.g., by allowing broader pay bands and rank-in-person compensation as in the Department of the Navy's demonstration project at China Lake)²

Actions Cited by NFFE and NTEU:

1. Reestablishing credibility within the Federal personnel system by requiring agencies to follow regulatory requirements which protect employee rights and following management practices that give employees an opportunity to be involved in decisions which affect them (e.g., participating in setting performance standards)
2. Initiating a dialogue with users of the civil service system (agencies, unions) before regulations are drafted, rather than at the end of the process
3. Reassessing position classification standards and incorporating the principle of equal pay for work of equal value
4. Developing cooperative labor-management efforts, such as quality circles, and joint labor-management committees
5. Eliminating the requirement that all agencies adopt a five-level performance rating scale

¹During the Roundtable, Mr. James W. Morrison, Jr., OPM's Associate Director for Compensation, said: "... we have a white-collar salary setting process which purports to measure comparability with the private sector but yet each year produces a pay gap, if you will, that is absolutely without any credibility; and there is not anybody in this room who is quite honest with himself who actually believes that overall Federal pay and benefits are 21.5 percent behind the private sector counterpart." Roundtable transcript, p. 45.

²See note 13, this Chapter.

TABLE 2-4

ISSUES IDENTIFIED FOR PRIORITY ACTION
BY CONGRESS IN 1984-1989

Actions Cited by OPM:

1. Enacting voucher plan as part of the Federal Health Benefits System
2. Amending the retirement benefits system in accordance with the President's 1984 budget proposals

Actions Most Frequently Cited by Commenting Agencies:

1. Reviewing the entire Federal compensation and benefits package (including salary, life insurance, health insurance, retirement pay, travel and transportation entitlements) to develop a total compensation package that will attract and retain a competent work force. Revisions should be made that will:
 - a. resolve disparities and simplify laws in pay administration to allow greater pay flexibility and "rank-in-person" as in the Department of Navy's experimental program at China Lake
 - b. provide more equitable merit pay coverage and funding
 - c. explore feasibility of expanding merit pay to all Federal employees
 - d. amend pay comparability provisions to make the formula for arriving at comparability more reflective of private sector salaries and of local pay rates
 - e. study the feasibility of implementing a true pay for performance system, without the deficiencies of existing merit pay and SES bonus systems, for all GS employees
 - f. amend pay setting provisions to remove Executive Level and SES from their link to congressional salaries
 - g. resolve dual retirement system payment inequities that would require Federal employees hired after January 1, 1984, to make full contributions (14% of salary) to both the civil service and social security retirement systems¹

Actions Cited by NEFE and NTEU:

1. Expanding the scope of negotiability, particularly to encompass performance standards
2. Eliminating merit pay and SES programs
3. Reducing the number of political appointments allowed within each agency to a percentage of the filled career positions. (The current limitation is based on a percentage of the allocated career positions, many of which may be vacant at any given time.)
4. Resolving the legal uncertainties surrounding the Pay Comparability Act of 1970 in light of the Supreme Court decision declaring unconstitutional legislative veto provisions like those contained in the Pay Act

¹See note 10, Chapter 1.

OPM Officials' Views of Merit System Priorities in 1984-1989

OPM identified a host of cost containment and cost reduction measures it would like to see enacted over the next five years. As Tables 2-3 and 2-4 indicate, the majority of changes OPM suggests are related to employee compensation and benefit programs. These include revisions to retirement benefits, to mechanisms used to measure comparability, and to employee health benefits. Hand in hand with these changes, OPM would like to see full implementation of a Government-wide performance management system, and expansion of the SES bonus program to allow bonuses for between 30-35 percent of an agency's SES cadre. A nonpay priority cited by OPM was increased emphasis on executive and management development programs.

Agency as well as OPM officials identified as a priority need the development of a supplemental staff retirement system for employees hired after January 1, 1984. A temporary measure was enacted as part of Public Law 98-168, which was signed into law on November 29, 1983. It reduces the dual payment requirement from 14 percent of salary to 7 percent.

Agency Officials' Views of Merit System Priorities in 1984-1989

Agency officials recommended actions that would increase the flexibility of various programs. They cited such examples as providing more equitable merit pay funding and coverage, and expanding use of the Department of Navy's "China Lake" demonstration project.¹³ They also cited changes in compensation and benefits as high priorities for action by Congress and OPM. Overall, agency recommendations place less emphasis on cost containment than OPM recommendations and more emphasis on eliminating implementation level inequities in programs. In addition to the compensation program changes suggested, responding agency officials cited the need for OPM to develop alternatives to the current Schedule B authority which replaced the Professional and Administrative Career Examination (PACE) and to implement its proposed regulations on RIF.

¹³This is a demonstration project authorized by the research and development provisions of Title VI of the Civil Service Reform Act which permit variations in the personnel system which would otherwise be prohibited under current law. The "China Lake" demonstration project experimented with changes in position classification for scientist and engineer positions. Individuals in the project were placed under grade bands (i.e., maximum and minimum pay ranges) that were broader than those for regular General Schedule scientist and engineer jobs. The project also implemented the concept of "rank in person." This allows individuals to be assigned where needed as under the military rank system. Performance-based incentives, merit pay, and RIF provisions tied to performance appraisal were also instituted. The Navy official responding to to MSRS interrogatories considered this experiment so successful that he recommended extension of these experimental provisions to other parts of the Navy work force.

NFFE and NTEU Officials' Views of Merit Systems Priorities in 1984-1989

Mr. Ferris of NTEU cited the need to clarify the validity of the Pay Comparability Act of 1970 in light of the Supreme Court's action invalidating legislative veto provisions like those contained in the Act. He also stressed the need for general congressional reconsideration of the wage setting system. Ms. Waelder of NFFE emphasized that much work is needed to realize the merit system objective of providing "equal pay for work of equal value." She also identified a need for a reassessment of the classification standards by which agencies determine the General Schedule pay level of individual jobs.

Both Mr. Ferris and Ms. Waelder cited the need for OPM to involve employees and employee representatives earlier and more openly in decisions on major personnel policies and to explore opportunities for joint employee-management productivity improvement ventures. Ms. Waelder recommended congressional action to expand the scope of bargaining, specifically to include negotiation on performance standards.¹⁴ Ms. Waelder also recommended abolishing the merit pay and SES systems. She stated that they: " . . . have been replete with problems since their inceptions because the systems are not well designed and do not work properly in Government."¹⁵ She further recommended limiting the base upon which agency allotments of noncareer SES positions are calculated to a percentage of the filled SES positions rather than to a percentage of the total (i.e., both filled and unfilled) SES positions in an agency, as is the current practice. She suggested that this would help maintain the originally intended ratio of political to nonpolitical executives within the overall SES cadre.

¹⁴The Civil Service Reform Act of 1978 required agency heads to develop, by October 1981, a new performance appraisal system for their agencies that set out the performance standards and critical elements for each job series and grade level used by the agency. Under the Act, employees were encouraged to participate in the development of performance standards and critical elements for their jobs. The Federal Labor Relations Authority, however, has held that the duty of agency officials to negotiate with representatives of bargaining unit employees does not extend to the content of performance standards or the identification of critical elements (National Treasury Employees Union v. Department of Treasury, Bureau of Public Debt, 3 F.L.R.A. 769, Case No. 0-N6-56, July 31, 1980). The U.S. Circuit Court of Appeals for the District of Columbia has also affirmed this decision (National Treasury Employees Union v. Federal Labor Relations Authority, U.S. Court of Appeals, for the District of Columbia, No. 80-1895, 691 F.2d 553, October 12, 1982). Employee unions are, however, permitted to bargain over the form of employee participation in establishing performance standards and the procedures used to develop and implement performance standards and critical elements.

¹⁵Roundtable transcript, p. 27.

Issue Analyses

The next four sections of this chapter examine the views of agency, OPM, and union officials in four issue areas: recruitment and examination, compensation and benefits, performance management, and reduction in force.

Section 2-2. Recruitment and Examination

1982 was a landmark year for Federal recruitment and examination policy. Two major changes by OPM had wide ranging impact for the Federal work force. First, OPM eliminated its entry exam for Professional and Administrative Careers (PACE) which, with its forerunner, the Federal Service Entrance Exam (FSEE), had been used for years to screen entry-level applicants to the work force. Second, OPM rescinded many of its previous delegations of authority to the agencies. These delegations had been permitted by the Civil Service Reform Act. OPM, agency, and union officials also commented on the Uniform Guidelines on Employee Selection Procedures.

Professional and Administrative Career Examination (PACE)

On May 11, 1982, OPM announced that it had abolished the use of the PACE, the competitive exam for entry-level professional and administrative career positions.¹⁶ More Federal agency officials commented on this issue in response to the MSPB interrogatories than on any other OPM action undertaken in 1982. A majority of the agency officials were opposed to the abolishment of the PACE and the institution of the Schedule B appointing authority. They recommended replacing the PACE with a more permanent and comprehensive authority than the current Schedule B authority as an OPM priority during the next five years. OPM Director Devine¹⁷ stated in written responses to the Merit Systems Protection Board (MSPB) that Schedule B authority is currently available to 40 agencies covered by the Federal Equal Employment Opportunity Recruitment Program (FEORP) and has been useful in increasing presentation of minorities and women.

¹⁶The dropping of the PACE and the establishment of Schedule B appointment authority is discussed in detail in Chapter 5.

¹⁷Letter from Donald Devine, Director, Office of Personnel Management, to Herbert E. Ellingwood, Chairman, Merit Systems Protection Board, November 4, 1983, p. 4.

Uniform Guidelines

Agency officials also remarked on the lack of guidance in implementing the Uniform Guidelines on Employee Selection Procedures (Uniform Guidelines).¹⁸ Although Mr. Ferris of NTEU argued for stronger enforcement of the Guidelines, two agency officials identified revision of the Guidelines as a top priority over the next five years. Two agency officials expressed their preferences for affirmative recruitment instead of timetables for improving minority representation.

Delegated Examining Authority

In March 1982, OPM issued revised criteria and policy guidance for approving delegations of certain personnel authorities.¹⁹ Under the new criteria, OPM would not delegate examining authority for entry-level positions that were then covered by the PACE (which was abolished two months later), nor would it delegate examining authority for positions common to agencies under the mid- and senior-level registers. Agencies seeking an examining delegation for a particular occupation would also be required to be the predominant Federal employer of that occupation in the relevant labor market area. The General Accounting Office disapproved of OPM's announced withdrawal of delegations because the delegations had resulted in faster hiring, higher quality of applicants selected, and enhanced recruitment of minorities and women.²⁰

¹⁸The Uniform Guidelines on Employee Selection Procedures were written in 1978 by the four agencies (OPM, Equal Employment Opportunity Commission (EEOC), Justice, and Labor) responsible for developing criteria for judging whether agency testing and selection procedures complied with the 1964 Civil Rights Act. Title VII of that Act requires that any test to measure the ability of any Federal job applicant or employee not be designed, intended, or used to discriminate against minorities. These guidelines are highly technical standards which require agencies to conduct scientific studies to demonstrate the validity of their selection procedures.

¹⁹The Civil Service Reform Act of 1978 provides authority for OPM to delegate certain personnel authorities to Federal agency heads. It authorizes the delegation of 31 blanket authorities (such as extending details beyond 120 days, appointing experts and consultants, and assigning excepted employees in Schedule A and B to competitive positions), and of 24 additional authorities to be negotiated on an agency-by-agency basis. These negotiated authorities include providing competitive examining, establishing excepted positions in Schedule C, and approving selective and quality ranking factors.

²⁰Comptroller General, U.S. General Accounting Office, "Delegated Personnel Authorities: Better Monitoring and Oversight Needed," GAO/FPCD-82-43, August 2, 1982, and "Government Employees Relations Report," Vol. 20, July 19, 1982, p. 13.

Just under one-half of the Federal agency officials responding to MSRS interrogatories were satisfied with the previous delegations and reluctant to lose them.

Section 2-3. Compensation and Benefits

Need for Broad Changes

A common theme among comments to the Board on compensation and benefits was the need to arrive at a system which would attract new Federal employees and restore confidence in Federal compensation practices. There was a consensus among eight agencies that one of the priority actions for OPM over the next five years should be the development of a coordinated and comprehensive pay, health, and retirement benefits program. Six agency officials also recommended that Congress review the entire Federal compensation and benefits package, including salary, life insurance, health insurance, retirement pay, travel and transportation entitlements.

Pay

A number of the agency officials recommended that priority action be taken over the next five years to resolve disparities and simplify laws with regard to pay administration. Several recommended adopting the principles of pay flexibility and "rank in person" found in the Department of Navy's demonstration project at China Lake.²¹ Nine agency officials stated that this should be a priority for OPM, and four agency officials felt that this should be a congressional priority. Other recommendations include amending the pay-setting provisions to remove the link between executive level and SES salaries and congressional salaries.

Pay Comparability

OPM officials identified reforming the method used to determine pay comparability with the private sector as one of their agency's top priorities over the next five years. Six agency officials also cited the need for Congress to amend Title 5 of the U.S. Code to make the comparability formula more reflective of private sector salaries and local pay rates. During the MSRS roundtable, Mr. Ferris of NTEU echoed the need for congressional action regarding pay disparity between the public and private sectors. He pointed out that his union membership believes the current wage system is unconstitutional because the Supreme Court has invalidated legislative veto provisions like those contained in the Pay Comparability Act of 1970.

²¹See note 13, this Chapter.

Health Benefits

There was an interesting contrast between the attitudes of OPM officials and those of agency officials in the health benefits area. Eight agency officials cited the delay in the Federal Employees Health Benefits Program Open Season²² and the increases in the cost of health benefits to employees as being one of OPM's most negative actions during 1982. In contrast, during the MSRS roundtable, OPM officials cited OPM's revisions to the health benefits program as one of their most positive actions in 1982. Four agencies cited the negotiation of better group health plans as being one of the priority actions for OPM in the future. During the MSRS roundtable, James Morrison, Jr., OPM's Associate Director for Compensation, cited the enactment of a voucher plan for the Health Benefits Program as another of the five-year priority actions for Congress.

Retirement

Most of the comments the Merit Systems Protection Board received on retirement concerned OPM's support of legislative proposals to reduce retirement benefits and to increase employee contributions to the Federal retirement system, especially for Federal employees hired after January 1984. Although one agency official commended OPM's support of legislative initiatives in 1982 to reform the retirement system, four others were highly critical of OPM's support of these initiatives. Under the plan originally passed by Congress,²³ employees hired after January 1984 would have been required to contribute approximately 14 percent of their salaries to both the social security and the civil service retirement system.

Nine agency officials in responding to MSRS interrogatories and the OPM officials at the MSRS roundtable recommended that Congress resolve the inequities in this dual retirement system payment for new employees. In November 1983 Congress enacted emergency legislation to provide temporary relief for new employees until a more comprehensive reform is made.²⁴ OPM officials during the MSRS roundtable also cited reform of the retirement benefits system, including taking action to develop a permanent alternative to the current system, as a priority action for OPM over the next five years.

²²Open Season is the time each year during which Federal employees and annuitants are permitted to change their health insurance policies by switching to another health insurance carrier or changing the extent of their coverage by the same carrier. OPM's practice had been to hold Open Season in November each year, but it did not hold one in 1981. Several Federal employee unions filed in U.S. District Court of Appeals for a hearing on February 10, 1982, on whether OPM must hold an Open Season. By April 1982, OPM announced that it would hold two open seasons in 1982. One from May 3 to May 28 and another one from November 22 to December 10. See the Government Employee Relations Report, Vol. 20, No. 949, p. 13, February 8, 1982; Vol. 20, No. 954, p. 15, March 15, 1982; and Vol. 20, No. 958, p. 12, April 12, 1982.

²³Social Security Amendment Act of 1983, Public Law 98-21, signed into law on April 20, 1983.

²⁴See note 10, Chapter 1.

Position Classification

Overall, the comments to the Merit Systems Protection Board on position classification had a single goal: to improve the accuracy of the classification system. Eight agency officials commented favorably on OPM's action in 1982 to improve the position classification accuracy by revising the standards used to determine proper title and grade levels.

Several approaches for improving the accuracy of the classification system over the next five years were described by agency and union officials. Eight agency officials argued that OPM should overhaul the position classification system. Three agency officials specifically recommended that OPM revise the standards by which jobs are classified and correct overgrading. At the MSRS roundtable, Ms. Waelder of NEFE recommended that Congress reassess position classification standards in order to incorporate the principle of "equal pay for work of equal value."²⁵

Four agency officials recommended that Congress reform the position classification system by removing grade level definitions and adapting the principle of "rank in person" as used in the Department of Navy's experimental system at China Lake.²⁶

Section 2-4. Performance Management

OPM's Regulations

A major activity undertaken by OPM in 1982 was the development of a performance management program. OPM Director Devine emphasized use of performance appraisals²⁷ as a beneficial management tool.²⁸ In late 1982, OPM began work on performance management regulations, including provisions that

²⁵5 U.S.C. 2301(b) (3).

²⁶See note 13, this Chapter.

²⁷See note 14, this Chapter.

²⁸Office of Personnel Management, Memorandum from Dr. Donald J. Devine, Director, and Joseph R. Wright, Jr., Deputy Director, Office of Management and Budget, for Heads of Departments and Agencies' Performance Appraisal, July 20, 1982. Also, Office of Personnel Management, OPM Bulletin 430-17, "Achieving Organizational Management Through Performance Appraisal," August 2, 1982.

would make receiving within-grade and quality step increases dependent upon receiving fully satisfactory or above performance appraisals. These were subsequently published in proposed form on March 30, 1983.²⁹

Performance Appraisal and Performance Based Incentive System

OPM officials pointed to the publishing of final regulations on the performance appraisal system which linked performance appraisals to the within-grade pay awards as their most positive action during 1983. Officials from seven agencies agreed with this statement. Officials in five agencies had reservations, however, about increasing reliance on the accuracy of performance appraisals and not involving the agency officials in the development of the Performance Based Incentive System (PBIS) for General Schedule employees. Two agency officials objected to OPM's establishing provisions in the proposed performance management regulations³⁰ which denied employees the right to appeal and grieve their performance ratings. There were also objections to OPM's proposal (later dropped) which established a two-level definition of "acceptable level of competence": one for the GS 1-6 and another for the GS 7-9. Two agency officials indicated that this proposal would have had a significantly negative impact on the merit system. Two other agency officials also objected to the extension of minimum time-in-grade requirements beyond the current one year. Ms. Waelder of NFFE identified OPM's failure to include employee participation in the development of performance appraisal systems as one of OPM's most significant negative actions of 1983.

Both agency and union officials recommended OPM priorities in this area for 1984-1989. OPM officials announced a continuing emphasis on performance management. This would be achieved by strengthening the role of the Office of Performance Management, which was created in 1982, by combining the offices within OPM having responsibility for merit pay, performance appraisal, and incentive awards. Seven agency officials said that developing a credible performance evaluation system to support PBIS should be an OPM priority action and four agency officials recommended testing new models for performance appraisal systems. Ms. Waelder of NFFE suggested that OPM provide guidance on performance appraisals and stress employee participation in the development of those systems. Finally, Mr. Ferris of NTEU recommended that OPM eliminate the requirement that agency performance appraisal systems have five levels of performance ratings.

²⁹See 48 F.R. 13342, March 30, 1983; 48 F.R. 32288, July 14, 1983; and 48 F.R. 49472, October 25, 1983, for the series of OPM proposed and final regulations on performance management. The final regulations were blocked by Congress and a U.S. District Court Judge, as explained in note 3, Chapter 1.

³⁰Ibid.

Productivity

Neither OPM nor agency officials identified any OPM significant actions related to productivity in FY 1982 or FY 1983. Mr. Ferris of NTEU identified two OPM inactions in 1983 as having an unfavorable effect on the merit system: one, failure to publish final regulations on productivity improvement and, two, failure to publish proposed regulations on quality circles. Ms. Waelder of NFFE recommended that mandatory use of quality circles and other cooperative labor-management efforts be a congressional priority.

2-5. Reduction in Force³¹

Agency officials addressed three RIF-related areas of OPM action in 1982 in their responses to the MSPB interrogatories: (1) placement services for RIF-related employees, (2) the implementation of the Senior Executive Service (SES) RIF regulations, and (3) increasing agency liaison and technical support during RIF.

The comments on OPM's RIF-related actions in 1983 principally centered on OPM's proposed RIF regulations³² covering employees other than those in the SES. The method by which RIF's are conducted in the Federal Government has been the subject of much discussion between the Federal employee unions and OPM. Much of this discussion has centered on OPM's proposed revisions to the RIF regulations. Originally issued for comment on March 30, 1983, these proposed regulations were withdrawn by OPM in late May 1983, revised and reissued for comment on July 14, and published as "final rules" on October 25, 1983. These regulations were blocked by Congress and a U.S. District Court Judge.³³

One major provision of these proposed regulations would increase the emphasis on performance and decrease the emphasis on seniority as RIF retention factors. This feature is similar to the type of RIF system that existed in the Federal Government prior to 1945. Although the technique for effecting this provision changed during the various revisions of the regulations, the concept of increasing the emphasis on performance has remained the same in all versions.

³¹MSPB has issued two detailed reports on Federal Government reductions in force in the last six months. These two reports are: Reduction-in-Force in the Federal Government, 1981: What Happened and Opportunities for Improvement, June 1983; and The RIF System in the Federal Government: It Is Working and What Can Be Done To Improve It?, Roundtable Monograph, December 1983.

³²See 47 F.R. 17528, April 23, 1982; 48 F.R. 13368, March 30, 1983; 48 F.R. 32304, July 14, 1983; and 48 F.R. 49462, October 25, 1983, for OPM's series of regulations on reduction in force.

³³See note 3, Chapter 1.

OPM officials at the MSRS roundtable cited the publication of the revised RIF regulations as one of the most positive significant actions OPM undertook in 1983. Agency officials on the other hand were divided in their reactions to these proposed regulations.³⁴

About one-third of all agency officials commenting to the Merit Systems Protection Board favored at least some features of the proposed regulations.³⁵ The regulations were also seen as potentially removing the burdensome and organizationally disruptive features of the current RIF system.

The regulations were criticized for what some agencies felt were their overreliance on the accuracy of performance appraisals. Another concern was the potential for adverse impact on recently appointed women and minority managers and handicapped employees who may have had less time to demonstrate "outstanding" performance. Ms. Waelder of NFFE criticized the regulations for permitting greater subjectivity and favoritism in the RIF process by increasing the emphasis on performance appraisals.

Five agency officials identified issuance of final new RIF regulations as an urgent priority action for OPM in the future. Two other agency officials recommended that OPM develop more effective policies and placement programs to assist Federal employees who lose their jobs because of RIF or automation to find new positions.

C. CONCLUDING OBSERVATIONS

In assessing OPM's impact on the merit system, observers in agencies, unions, and OPM itself each bring a distinct set of values and concerns. These differences influence their judgments about the effect of OPM policies and programs.

In some cases, despite these differences, there is agreement on priorities for the merit system. The study team found it significant, for example, that all three groups of officials identify a comprehensive review of the Federal pay and benefits system as a top priority for Congressional and Executive action over the next five years.

³⁴Since the agency officials responded to MSPB interrogatories during July, August, and September 1983, their comments address only the March 30 and July 14 proposed RIF regulations.

³⁵The emphasis on the July 14 regulations on performance as a RIF retention factor was seen as consistent with merit principles.

In other instances, the same action or decision may be interpreted differently by officials in these three groups. For example, OPM cited its cost-saving changes to the Federal Employee Health Benefits Program as one of its most important achievements during 1982. Agency comments to MSRS interrogatories, however, focused not on the cost savings, but predominantly on the negative effects of this OPM action on their employees.

It is also clear that the differences in the objectives and priorities of unions, OPM, and agencies sometimes lead to conflicts. Officials from both OPM and the unions at the MSRS roundtable agreed on the need for a review of the pay system. They differed greatly, though, in terms of their sense of what the goals for change should be. OPM's proposals, as discussed above, are primarily related to cost containment and cost reduction. Their stated objective is to scale back what they believe are excessive benefits for employees. Ms. Waelder of NFFE, on the other hand, stressed the need for a more realistic effort to ensure that the Federal compensation system provides "equal pay for work of equal value."³⁶ Where this principle has been rigorously applied, it has usually resulted in increasing compensation for specific occupational groups or classes. These conflicts in the views of officials in agencies, unions, and OPM are simply a reflection of the complexity of balancing conflicting needs within the merit system itself. All three perspectives are important for understanding how OPM is affecting the merit process.

The next chapter, **Chapter 3: Incentives for Performance**, addresses employee attitudes toward merit pay, performance appraisal, and other performance-related programs during 1982 and the period leading up to OPM's announcement of its proposals for instituting what it describes as "performance management" on a Government-wide basis.

³⁶5 U.S.C. 2301.

CHAPTER 3

INCENTIVES FOR PERFORMANCE

A. INTRODUCTION

During 1982, OPM had a major effort underway to reexamine the linkage between pay and performance for employees at all levels of the Federal work force. This work was the basis for the far-reaching package of final regulations which OPM issued on October 25, 1983.¹ Through its regulations, OPM sought to institute what it called "performance management" throughout the Executive Branch. Both Congress and the courts have recently intervened to block OPM's regulations from taking effect.²

This chapter focuses on the antecedents of OPM's 1983 regulations. It looks at employee perceptions of the pay-performance linkage, and how four of the Government's basic management systems for measuring, motivating, and rewarding performance were operating during 1982 and in the period leading up to OPM's regulatory proposals. The four systems are: performance appraisal, merit pay, SES bonuses, and management actions to deal with poor performers.

The information presented is drawn from Federal agency responses to interrogatories addressed by the Board, and from the Board's Merit Principles Survey. This survey was administered in the summer of 1983, and thus reflects experience through most of 1983 as well.³ The critical questions the study team examined and the major findings based on these questions are identified below.

¹48 F.R. 49472.

²OPM issued proposed performance management regulations on March 30, 1983. After strong reactions from Congress and employee unions, OPM issued revised proposed performance management regulations on July 19, 1983. A third revision was published on October 25, 1983, as final regulations. However, Congress and the courts have blocked implementation of OPM's regulations. The future of OPM's performance management proposals is uncertain at this time. See note 3 in Chapter 1 for details on Congressional and court action.

³The Merit Principles Survey is a nationwide questionnaire which the Board administered in July 1983. The random and stratified sample group covered all levels of the work force in 22 departments and independent agencies. See Appendix A for details on the survey's methodology.

Critical Questions

1. Do employees see any direct benefits to them if they work harder?
2. How credible is performance appraisal as a measure and motivator of performance?
3. Is merit pay fulfilling its promise of giving the Government's midlevel management cadre both incentives and rewards for performance?
4. Does the SES bonus system provide a fair and equitable framework of incentives for performance?
5. Is the Government a "safe haven" for the chronic poor performer?

Major Findings

1. A majority of employees (59%) feel they will be recognized as good performers if they work harder in their current jobs, but few think working harder will lead to more pay or a better job.
2. While the perceived linkage between pay and performance was weak overall, it was higher for merit pay employees than for the rest of the work force. Thirty-three percent of merit pay employees said it was likely they would receive more pay for working harder in their present jobs. Only 16 percent of employees outside merit pay had the same expectation.
3. A majority of employees were positive about the fairness and accuracy of their last performance rating. Six out of ten (61%) said it reflected their actual job performance.⁴
4. Merit pay worked better in 1982 than it did in 1981, but the system continues to have fundamental structural flaws. Inadequate funding and disparities resulting from lack of universal coverage were identified by agencies as major problems.
5. Only one SES executive in ten said that there were enough bonuses so that if he or she performed well, he or she would have a good chance of receiving one. Executives also questioned the way in which the available bonuses were distributed.⁵
6. There appears to be much more informal supervisory action in dealing with poor performers than is indicated by the available data on formal performance-based removal actions.

⁴It should be noted that employees' acceptance of their ratings neither proves nor disproves the accuracy of those ratings. For example, inflated ratings are more likely to be accepted than those which are accurate, but indicate less than fully successful work.

⁵Our survey data was collected before the recent change in the limits on the number of SES bonuses which agencies can award. See Section 3-4.

These findings and the data upon which they are based are discussed in detail under the section headings: 3-1. **Basic Incentives to Perform**, 3-2. **Performance Appraisal**, 3-3. **Merit Pay**, 3-4. **The SES Bonus System**, and 3-5. **Dealing with Poor Performance**. Within each of these sections there are separate subsections which introduce the subject, identify the critical questions and findings, and present the statistical data and concluding observations relevant to that subject. The final section of this chapter provides the study team's concluding observations on the overall topic of incentives to perform.

B. FINDINGS

Section 3-1. Basic Incentives to Perform

a. Introduction to Basic Incentives to Perform

Every society is to some extent the product of its beliefs. Perhaps no idea related to the world of work is more fundamental to American society than the rags to riches success stories popularized by Horatio Alger, and their ultimate moral: "Work hard and you will be rewarded." Based upon the results of our Merit Principles Survey, civil service employees who work harder in their current jobs feel they are likely to be recognized as good performers. In contrast, however, working harder in one's current job is not seen as leading to higher pay, a better job, or even tangible nonpay rewards. This section examines these findings.

In explaining the purpose of its Performance Management proposals, OPM officials state the proposals are intended to address several specific concerns about civil service pay including:

- inadequate rewards for employees who perform well, and
- the lack of an apparent relationship between performance results and personnel decisions.⁶

Attempts to improve employee performance are not new. Creating incentives for performance was perhaps the dominant theme of the Civil Service Reform Act of 1978⁷ and has been a basic management principle for several decades. In submitting his legislative reform proposals to Congress, President Carter stated:

I am transmitting to the Congress today a comprehensive program to reform the Federal Civil Service System. My proposals are intended to increase the Government's efficiency by placing new emphasis on the quality of performance of Federal workers

.

The public suspects that there are too many Government workers, that they are underworked, overpaid, and insulated from the consequences of incompetence

⁶U.S. Office of Personnel Management undated handout, "Talking Points on Performance Management Systems Regulations," p. 2.

⁷Public Law 95-454, October 13, 1978.

Such sweeping criticisms are unfair to dedicated Federal workers who are conscientiously trying to do their best, but we have to recognize that the only way to restore public confidence in the vast majority who work well is to deal effectively and firmly with the few who do not.⁸

One of the new features of the Reform Act was the enunciation in the statute itself of the merit principles which are to guide the civil service system. These principles also express in uncompromising terms the imperative for performance. Merit principle number three requires that: "appropriate incentives and recognition should be provided for excellence in performance."⁹ Merit principles number six states:

(6) Employees should be retained on the basis of the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.¹⁰

Given these clear statements of Congressional intent, it is evident that if no incentives for performance exist, statutory merit system objectives are not being met. The critical question the study team examined in relation to these merit system objectives and the major findings based on these critical questions are identified below.

Critical Question on Basic Incentives to Perform

What rewards, if any, do employees believe they will receive if they work harder?

Major Findings on Basic Incentives to Perform

1. Recognition as a good performer appears to be the most likely form of reward for working harder.
2. The perceived linkage between pay and performance was weak overall. However, it was higher for merit pay employees than for others in the work force.
3. Respondents were least hopeful about increasing the opportunities to advance their careers through working harder.

b. Findings on Basic Incentives to Perform

Perhaps the most basic question one can ask regarding workplace incentives is: "What, if anything, will happen if you work harder?" Respondents to the Merit Principles Survey were asked how likely it was that they would receive additional pay or nonpay rewards and also if working harder in their present job would result in their being promoted or being recognized as a good performer. Their responses are shown in Chart 3-1 and summarized below.

⁸Message from the President transmitting a draft of proposed legislation, H. Doc. 95-299, 95th Cong., 2d sess. 3 (1978).

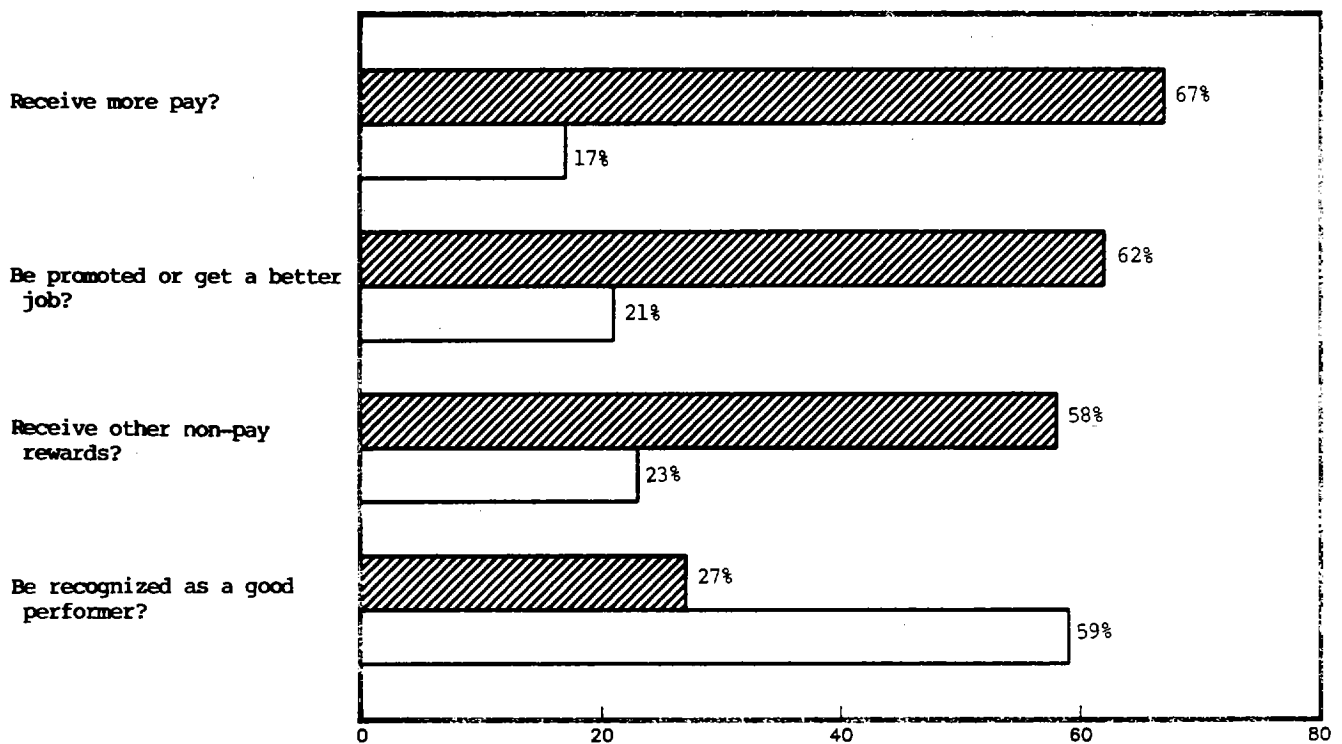
⁹5 U.S.C. 5301 [hereinafter cited as Merit Principles].

¹⁰Merit Principles.

Chart 3-1

Likelihood of Reward for Working Harder

Q3. If you work harder in your present job
how likely is it that you will:



% Respondents answering

Very unlikely or somewhat unlikely 

Very likely or somewhat likely 

Respondents: Representative of all employees
at all levels of the Federal work force.

Number of respondents: 4,897.

Chart does not include responses "Neither likely
nor unlikely" and "Don't know/Can't judge".

1. **Nearly six out of every ten employees (59%) said it was likely that they would be recognized as good performers if they worked harder in their present jobs.** This was a substantial margin of positive responses. Twenty-seven percent said it was somewhat or very unlikely that they would be recognized.

2. **The perceived linkage between pay and performance was relatively weak.** Only about one-fifth of all respondents said it was likely they would receive more pay (17%) or other nonpay rewards (23%) if they worked harder.

3. **Employees did not feel that working harder in their present job would increase their chances for promotion or career advancement.** Only about two employees in ten (21%) said they would be likely to be promoted or get a better job if they worked harder in their present jobs. Only six percent felt it was very likely that they would be promoted or advanced. Nearly one-half (49%) said it was very unlikely that working harder in their present job would lead to some type of career progress.

c. Concluding Observations on Basic Incentives to Perform

It is clear that employees currently have little expectation of receiving tangible rewards if they work harder in their present jobs. This is not consonant with the explicit goal expressed in the merit principles that there be incentives and recognition for excellence in performance. For this reason, the current Congressional and Executive review of the incentive structure is both timely and appropriate.

Section 3-2. Performance Appraisal

a. Introduction to Performance Appraisal

The preceding section explored employee perceptions of the linkage between pay and performance. To establish this linkage at all, an accurate and objective means for measuring and comparing (appraising) individual performance is needed. On its surface, appraising performance may seem as though it should be a fairly straightforward process. After all, we daily make judgments about the quality of service we receive both in the office and outside in our personal business affairs. Yet, as the General Accounting Office has stated, instituting an effective performance appraisal system on a large scale is extremely difficult. GAO estimates that it takes private sector firms anywhere from three to five years to install new performance appraisal and merit pay systems.¹¹

In part, the difficulty of instituting a good performance system stems from the contradictions inherent in any form of evaluation. The greater the emphasis placed on performance as the basis for setting pay levels, determining who is promoted, and who keeps their job during reductions in force, the less subjective and more fully defensible performance appraisal judgments must become. At the same time, regardless of how rigorously defined the standards of quality performance are, in the end each individual supervisor must make subjective judgments in applying them. The greater the need for accuracy, the greater the need for this exercise of individual judgment. These supervisory

¹¹U.S. General Accounting Office, Federal Merit Pay: Important Concerns Need Attention, FPCD-81-9, March 3, 1981, p. 7.

judgments are the only mechanism for adjusting the system to take into account the unique circumstances which affect each individual employee's output and results.

Employees in the Board's survey were positive about the fairness and accuracy of their last performance appraisal. Despite this optimism, judgments were at best mixed on whether or not performance appraisal motivated increased effort on the job. The critical questions the study team examined on performance appraisal and the major findings based on these critical questions are identified below.

Critical Questions on Performance Appraisal

1. Do employees believe the performance ratings they have received give a fair and accurate picture of their actual job performance?
2. Do employees see performance appraisal as a reason to try to do a better job?

Major Findings on Performance Appraisal

1. Employees in the Merit Principles Survey were positive about the fairness and accuracy of their last performance rating.
2. There was no clear consensus on what would improve the performance appraisal system.
3. Respondents were mixed in their evaluation of performance appraisal as a motivator of improved performance.

b. Findings on Performance Appraisal

The findings on Performance Appraisal are discussed below under two subheadings: **Fairness and Accuracy**, and **Performance Appraisal and Actual Performance**.

Fairness and Accuracy

Sixty-one percent of those who had received a performance rating in the preceding year said that rating gave a fair and accurate picture of their actual job performance. Responses to this question are shown in Chart 3-2. Only about one-third of the respondents (32%) said their ratings had not accurately portrayed their performance.

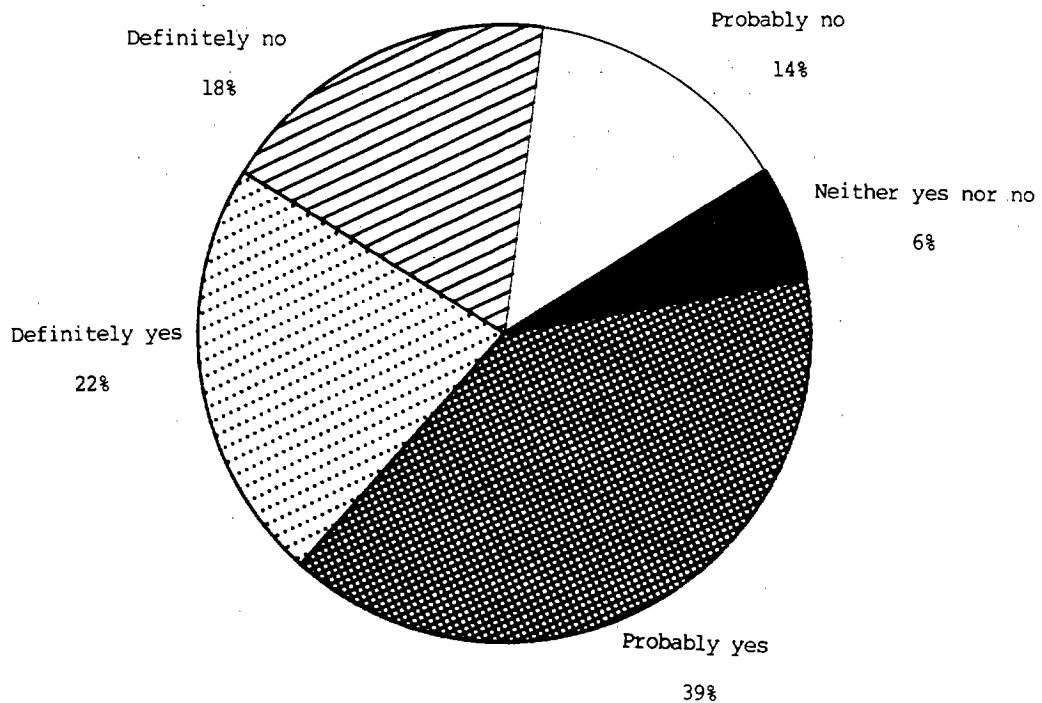
The study team's findings differed in some respects from data recently reported by the General Accounting Office. The GAO asked merit pay employees at HUD, Navy, and Agriculture a similar question in January and February 1982.¹²

¹²GAO Report to the Honorable Jeff Bingaman, Analysis of OPM's Report on Pay for Performance in the Federal Government, 1980-1982, GAO/GGD-84-22, October 21, 1983, p. 5.

Chart 3-2

Perceived Fairness and Accuracy of Performance Ratings

Q12. Did your performance rating provide a fair and accurate picture of your actual job performance?



Respondents: Representative of all employees at all levels of the Federal work force who received performance ratings in the past 12 months.

Number of respondents: 4,161.

Percentages do not add up to 100% due to rounding.

To facilitate a comparison with GAO's findings, the study team has arrayed the Merit Principles Survey data for each of these three agencies, and the Government-wide results in Table 3-1.

GAO reported that between 39 percent and 52 percent of merit pay employees in HUD, Navy, and Agriculture said that their most recent performance ratings were not an accurate reflection of the quality of their performance during the rating period. While the exact percentages differ, in general, the Board's data shows the same trends as GAO's in these three agencies. Based on discussions with GAO staff, in both GAO's and the Board's surveys the results for HUD are more negative than the pattern of responses for Navy and Agriculture. The HUD responses are also very different than the pattern in our Government-wide data. Government-wide trends were not discussed in detail in the GAO report.

Although our results in these three agencies are similar, the study team reaches different conclusions about Government-wide trends than GAO does about the results in HUD, Agriculture, and Navy. GAO concludes in its report: "Neither the performance appraisal nor the merit pay system is well accepted by the employees in the three agencies."¹³ The Board's Government-wide data indicate that in the overall work force, a majority of Federal employees (61%) are positive about the accuracy and fairness of their last performance rating. While not a blanket endorsement of performance appraisal, this is, obviously, a positive indication of employee acceptance of performance appraisal as a Government-wide system.

Performance Appraisal and Actual Performance

There was no clear indication that performance appraisal motivates improved performance. Thirty-eight percent of all respondents said that having their performance rated under their agency's performance appraisal system made them try to do a better job. However, as Chart 3-3 shows, about an equal portion of employees, (36%) said performance appraisal did not make them try to do a better job. Of these, 18 percent said definitely that performance appraisal did not have this effect. There was also a fairly large portion of neutral responses--about one employee in four (25%) answered Neither Yes nor No.

Fairness of performance standards and the supervisor's application of those standards in the rating process were not seen as major factors by those who said performance appraisal was not a motivator. Employees who said they did not feel that performance appraisal was a motivator were asked to identify the single factor from a list of factors which best explained why. The factors and employees' responses are shown in Table 3-2.

No factor was cited by a majority as a key weakness of the system. The two most frequently cited problems of those listed were: "If you are rated high nothing happens," and "Limitations on the number of people who can get high ratings." The October 25, 1983 version of OPM's performance management regulations require that any employee rated outstanding be automatically nominated for some type of monetary or nonmonetary award.¹⁴ A provision of this

¹³Ibid.

¹⁴See note 2, this chapter.

Table 3-1

FAIRNESS AND ACCURACY OF PERFORMANCE APPRAISAL

Q. 12. Did your performance rating present a fair and accurate picture of your actual performance?

	<u>HUD</u>	<u>NAVY</u>	<u>Agriculture</u>	<u>Government-wide Total</u>
Yes ¹	36%	74%	59%	61%
Unsure ²	5%	1%	5%	6%
No ³	59%	23%	36%	32%

Respondents: Representative of all Merit Pay employees in HUD, Navy, Agriculture, and all agencies combined (including HUD, Navy, and Agriculture).

Number of respondents: HUD: 60; Navy: 87; Agriculture: 77; Government-wide: 1,272.

¹Includes responses "Definitely Yes" and "Probably Yes."

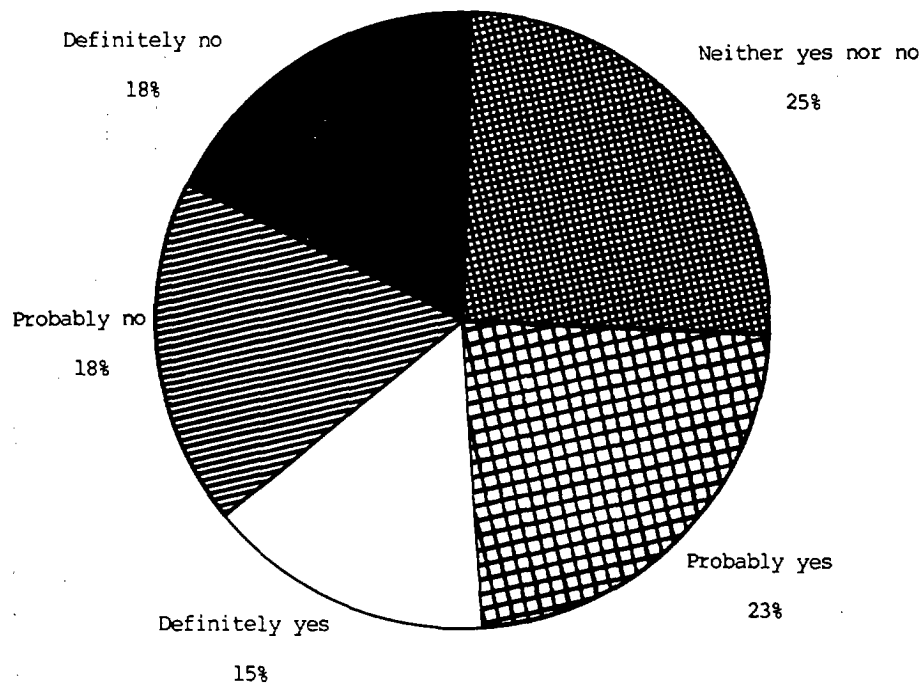
²Includes responses "Not Sure" and "Don't Know/Can't Judge."

³Includes responses "Definitely No" and "Probably No."

Chart 3-3

Performance Appraisal as a Motivator

Q8. Does having your performance rated under your agency's performance appraisal system make you try to do a better job?



Respondents: Representative of all employees at all levels of the Federal work force.

Number of respondents: 4,776.

Percentages may not add up to 100% due to rounding.

TABLE 3-2

PROBLEMS WITH THE PERFORMANCE APPRAISAL SYSTEM

Q. 9. If performance appraisal does not make you try to do a better job, which of the following best describes the reason why?

% Citing This Factor¹

If you are rated high nothing happens.	23%
There is a limit on the number of people who can get high ratings.	18%
My supervisor doesn't apply my standards fairly when rating me.	9%
My supervisor doesn't take into account factors beyond my control when rating me (e.g., inadequate tools, resources, delays by other offices, etc.).	9%
Not sure/can't judge.	6%
My performance standards are unfair as they are written.	6%
If you are rated low nothing happens.	1%
Other reasons. ²	28%

¹Percentages shown are weighted to reflect Government-wide trends. See Appendix A for description of the weighting scheme. There were 2,892 total valid responses. These are individuals who indicated that performance appraisal did not motivate them to do a better job.

²Respondents who said "other" were asked to write in comments. The study team analyzed a weighted random sample of these narratives. Over one-half of those responses examined said that "personal pride" was the primary motivating factor in their performance. (See discussion, pg. 45.)

type could help provide a greater sense that there are positive consequences for good performance. Existing personnel regulations prohibit the use of forced distribution.¹⁵ The identification of "limits on the number of people who can get high ratings" as a problem suggests the potential need for better OPM monitoring of agency compliance with these prohibitions.

Perhaps what is most interesting about the responses to this question are the factors that were not cited as serious problems. For example, only about six percent of those answering indicated that unfair performance standards were a problem. Supervisory application of performance standards when making the rating was criticized by only about nine percent of respondents.

In addition to being able to choose one of the problems listed, respondents could choose "Other," and write in comments at the end of the questionnaire. "Other" was the category most often checked by employees responding to this question.

The study team examined a weighted random sample of questionnaires on which respondents had checked "Other" in response to Q. 9. The narrative comments of respondents in this group were then analyzed. Over one-half of the respondents in this subgroup stated that performance appraisal did not make them try to do a better job because they were chiefly motivated by personal pride. The following three comments were representative of this group of respondents:

First and foremost, I have always tried to do as good a job as I could and I don't think I need the carrot/stick of good/bad performance rating to make me perform well (Merit Pay (GM) 15 employee).

I am highly motivated and consider pay, etc., less important than personal satisfaction (GS 5-8 employee).

It's personal pride that motivates me to do as good a job as I can (GS 13-14 employee).

Twenty-eight percent of all those answering Q.9 checked "Other." If the pattern of this subgroup holds true for the larger sample, then approximately 16 percent of all those who answered Q. 9 indicated that performance appraisal was not a motivator because they were self-motivated, i.e., motivated by personal pride. This would make personal pride the third largest factor in this ranking, making it more important in employees' views than questions over the fairness of their performance standards or their supervisor's application of their standards in the rating process.

c. Concluding Observations on Performance Appraisal

Many reports on the implementation of performance appraisal have focused on the problems in the system. While there are problems, the study team's findings indicate that a majority of the employees surveyed believe their last

¹⁵ 5 CFR 430.203(d) states: "An appraisal system shall not permit any pre-established distributions of expected levels of performance (such as a requirement to rate on a bell curve) that interfere with appraisal of actual performance against standards."

performance rating did present a fair and accurate picture of their actual performance. This is a positive sign. Yet, there is a continual need to be cautious.

Employees' acceptance of their ratings neither proves nor disproves the accuracy of those ratings. For example, inflated ratings are more likely to be accepted than those which are accurate but indicate less than fully successful work. The General Accounting Office has found problems in rating procedures and performance standards at nine agencies in which it conducted extensive reviews of the performance appraisal system.¹⁶

On the other hand, the results from the Merit Principles Survey are representative of attitudes across the Federal work force. The positive support for the appraisal process the Board's data show provides a reasoned basis for hope that the performance appraisal system can make a substantive contribution toward achieving the statutory goal of efficient and effective use of the work force.

Section 3-3. Merit Pay

a. Introduction to Merit Pay

In MSPB's report on OPM Significant Actions During 1981,¹⁷ the initial Government-wide implementation of merit pay and a series of problems with the system were examined. This section looks at what progress agencies feel was made in 1982 on eliminating these problems. It examines what agency heads and directors of personnel say are the most important changes that need to be made in the merit pay system for the future. Finally, it explores the reactions of merit pay employees to the results of the 1982 merit pay payout and compares their attitudes to OPM's conclusions about merit pay in its recently published report: Significant Progress in Pay-For-Performance 1980-1982.¹⁸

Perhaps no program better embodies the effort to bring private sector economic incentives to Federal sector personnel management than the merit pay system established by the Civil Service Reform Act of 1978.¹⁹ At the time of the Act, Congress felt that the periodic within-grade raises employees received

¹⁶U.S. General Accounting Office, Federal Merit Pay: Important Concerns Need Attention, FPCD-81-9, March 3, 1981. Also, GAO Report to the Director, Office of Personnel Management, New Performance Appraisals Beneficial But Refinements Needed, GAO/GGD-83-72, September 15, 1983.

¹⁷U.S. Merit Systems Protection Board, Report on the Significant Actions of the Office of Personnel Management During 1981, December 1982, 63 pages.

¹⁸U.S. Office of Personnel Management, Significant Progress in Pay-for-Performance 1980-1982, OPM, p. 80, August 1983 [hereinafter cited as Progress].

¹⁹Public Law 95-454, October 13, 1978.

were becoming too automatic.²⁰ The merit pay system was established to create a closer linkage between the pay and performance of supervisors and management officials at grades 13-15.

Under merit pay, these employees are no longer eligible for the within-grade increases (WGI) and quality step increases (QSI) which other civil service employees receive. Also, they are only guaranteed one-half of the annual comparability adjustment granted to other employees. The funds that otherwise would be paid out to these employees in WGI's and QSI's, and the other one-half of the comparability increase are instead put into separate merit pay pools within each agency. All of the employees covered by merit pay within an agency receive an annual merit pay raise from the pool. The size of this raise (i.e., their individual share of the pool) is determined on the basis of how well they performed during the previous performance rating period. The critical questions relative to merit pay and the major findings based on these critical questions are identified below.

Critical Questions on Merit Pay

1. What was agencies' experience with the 1982 merit pay payout?
2. Has merit pay, as OPM has stated, achieved a "high degree of acceptance among employees"?²¹
3. How do employees see merit pay affecting their salary?
4. Is merit pay an effective tool for motivating employees to improve their performance?

Major Findings on Merit Pay

1. Merit pay worked better in 1982 than it did in 1981, but serious structural flaws remain.
2. Agencies identified restructuring merit pay funding and resolving problems caused by lack of universal coverage as the top priorities for legislative and OPM action.

²⁰Pay for the bulk of the Government's white collar work force is set in terms of a series of pay rates known as the General Schedule. This table contains 18 grades. Each grade is a pay range consisting of 10 pay steps. The work of Federal white collar employees is evaluated and "classified" by being assigned a pay grade value. Progression from the low end of the range (step 1) to the high end (step 10) within a pay grade can occur either by within-grade increases (WGI) based on time in grade and acceptable performance or quality step increases (QSI) which are awarded for outstanding performance.

²¹Progress, p. 30.

3. Some employees continued to receive smaller increases under merit pay than they would under General Schedule pay rules.

4. The Board's Merit Principles Survey data do not agree with OPM's recently published conclusions about the high degree of acceptance of merit pay among grade 13-15 employees. In the Board's survey, less than three merit pay employees in ten said they would voluntarily choose to be covered under their agency's merit pay system.

5. The perceived link between pay and performance among merit pay employees is somewhat greater than for other groups in the general work force. However, about seven employees out of every ten surveyed said the amounts of money paid out in their merit pay pool during 1982 were not large enough to affect their performance.

b. Findings on Merit Pay

The findings on merit pay are discussed below under two subheadings: **Agency Experience in the 1982 Merit Pay Payout**, and **Survey Data on Merit Pay**.

Agency Experience in the 1982 Merit Pay Payout

Agency officials reported that merit pay worked better in 1982 than it had in 1981. Nonetheless, there were still problems with funding, and still instances where merit pay employees received less money than General Schedule employees with comparable ratings. These were identified by the agencies who responded to the Board's interrogatories as priority areas for change. This subsection explores agencies' comments to the Board on their experiences with merit pay in 1982.

The Board's Report on OPM Significant Actions During 1981 identified the following problems that occurred in the Government-wide implementation of merit pay among GM 13-15 employees that year:

1. Last minute changes in guidance to agencies.
2. Disincentives for participants (e.g., some merit pay employees received smaller increases than General Schedule employees with comparable ratings and time in grade).
3. Assessments by agency officials that over the long term there would not be enough merit pay money in the pools to motivate and reward performance.

Agencies were asked whether or not they experienced a repeat of any of these problems, or encountered any other problems during the 1982 merit pay payout. They also were asked what problems, if any, they anticipated might come up during the 1983 merit pay cycle and what changes would be needed within their agency, in OPM regulations, or in the law in order to avoid them. Agencies' comments are discussed below under the headings: **Late Changes in Guidance, Disincentives, Funding, and Priorities for Change.**

Late Changes in Guidance

Overall, agency officials indicated that OPM had done a better job of avoiding serious last minute changes in guidance during 1982. Although OPM changed the tables used by agencies to determine merit pay funding less than

two months before the payout period, only nine of the twenty agencies cited problems in this area. The Department of the Air Force appears to have been the most inconvenienced. Although the OPM changes were relatively minor, they necessitated significant changes in Air Force's highly automated merit pay procedures and "caused a costly administrative burden."²² NASA indicated in its comments to the Board that OPM could have avoided "unnecessary wasted time and effort in the agencies" by moving more quickly to provide guidance on this matter.²³

Disincentives

While some of the limitations imposed on merit pay funding by the Comptroller General²⁴ expired in 1982, inadequate funding continued to hurt the program. A major concern of agencies was continuation of smaller increases for some merit pay managers than for nonmerit pay employees with comparable ratings.

1981 was the first year of mandatory Government-wide implementation of merit pay. In that year, there were serious disagreements between the General Accounting Office and the Office of Personnel Management on how much flexibility the Director of OPM had to determine the funding levels for merit pay. The General Accounting Office prevailed through issuance of a Comptroller General Opinion²⁵ less than three weeks before the statutory deadline for implementation. The ruling forced OPM and agencies to scale back the money they had intended to distribute in the 1981 merit pay payout. Personnel officials in agencies told MSPB in 1982 that the limitations on funding resulted in many managers receiving merit pay increases which were smaller than the combined comparability and within-grade increases received by their peers who were not covered by merit pay.²⁶ OPM estimated that Government-wide at least 25 percent of merit pay employees were affected this way.²⁷ Some agencies estimated the percentage of their employees who received less money under merit pay to be even higher.

²²Letter from J. Craig Cumbey, Deputy Assistant Secretary of the Air Force (Civilian Personnel and EEO), to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, August 9, 1983.

²³Letter from Carl E. Grant, Director, Personnel Programs Division, U.S. National Aeronautics and Space Administration, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, July 28, 1983.

²⁴Comptroller General of the U.S. General Accounting Office Decision B-203022 (September 8, 1981) [hereinafter Comp. Gen.].

²⁵Comp. Gen.

²⁶Merit Systems Protection Board, Report on the Significant Actions of the Office of Personnel Management During 1981, December 1982, pp. 31-32.

²⁷Letter from Donald J. Devine, Director, Office of Personnel Management, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, April 16, 1982.

A major feature of the Comptroller General's ruling was the requirement that OPM apportion within-grade increase funds during the changeover to merit pay from the General Schedule system. This requirement reduced the money available for merit pay. It only applied, however, to 1981, the transition year. Thus, the 1982 payout represented the first opportunity to see how merit pay would operate with full funding under the parameters set by the General Accounting Office's Comptroller General decision.

Thirteen of the 20 agency officials who responded directly to the Board's interrogatories on this issue said they still had merit pay employees in 1982 who were receiving less than they would have under General Schedule pay rules. Several noted that the problem was not as severe as during 1981, but was still a major disincentive. Agencies such as HHS²⁸ and NASA²⁹ indicated that they instituted special policies to ensure that their merit pay employees did not lose money. The Department of the Navy³⁰ said it had good results using one-time, lump-sum cash awards as a means of augmenting the payout for top performers. Navy stated that it was pleased with the results and plans to use cash awards again in the 1983 payout. Even some agencies which felt the disincentives problem had been alleviated, still questioned whether the objectives of the merit pay program were being met. The following comments taken from agency responses are representative:

The Director, Personnel Resource Management Service, Department of Education commented:³¹

[A]lthough the results of the payout did not significantly hurt merit pay employees as a group, the rewards were not so superior to make merit pay appear to be a panacea for motivation of employees.

²⁸Letter from Thomas S. McFee, Assistant Secretary for Personnel Administration, U.S. Department of Health and Human Services, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, July 27, 1983.

²⁹See note 23, this Chapter.

³⁰Letter from Joseph K. Taussig, Jr., Deputy Assistant Secretary of the Navy (Civilian Personnel Policy/Equal Employment Opportunity), to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, August 9, 1983.

³¹Letter from Charles L. Heatherly, Deputy Under Secretary for Management, U.S. Department of Education, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, August 8, 1983.

The Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), DOD, stated:³²

The situation in which merit pay employees received a smaller increase than they would have received had they remained under the General Schedule did not occur as frequently in 1982 because of the increased funding. It did still occur in some cases, however, and remains a major problem area. The current system is still viewed by many as one that penalizes rather than rewards.

The Assistant Secretary, U.S. Department of Housing and Urban Development, emphasized that any disparities of this sort were a consequence of the requirements of the Reform Act itself and were outside the control of OPM.³³

Funding

A majority of the agencies responding to the Board said underfunding must be corrected if merit pay is to work. The comments from NASA, Justice, and Agriculture illustrate the concerns expressed. The Director of the Personnel Programs Division for NASA stated:³⁴

[A]s currently structured, there is inadequate funding for merit increases to realize any positive effect on performance or morale; therefore, merit pay does not operate as an incentive system. Under the current statute all that NASA management can do is minimize the damage.

The Assistant Attorney General for Administration, Department of Justice, told the Board:³⁵

[D]iscentives for participants and assessment by agency officials that the pool/funding is insufficient to motivate and reward performance, are endemic to the system and will continue as long as the system remains as structured.

³²Letter from Jerry L. Calhoun, Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), U.S. Department of Defense, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, August 2, 1983.

³³Letter from Judith L. Tardy, Assistant Secretary for Administration, U.S. Department of Housing and Urban Development, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, August 1, 1983.

³⁴See note 23, this Chapter.

³⁵Letter from Kevin D. Rooney, Assistant Attorney General for Administration, U.S. Department of Justice, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, July 29, 1983.

Comments from the Acting Director of Personnel, U.S. Department of Agriculture, were also representative:³⁶

The funding levels established for merit pay have never been adequate. In limiting funding to that spent under the General Schedule system, the law provided no new incentive allowing at best a moderate reward for top performers. These rewards are not large enough to increase productivity and do not motivate employees. If merit pay is to succeed, monies sufficient to provide an incentive must be made available.

The Assistant Secretary of the Army (Manpower and Reserve Affairs) stated³⁷ that in the 1982 merit pay pay-out, an estimated 42 percent of the Army merit pay (GM) employees received salary adjustments which were less than those received by General Schedule employees in the same grade and performance level.

Agency officials commenting to the Board also most frequently cited inadequate funding as an anticipated problem for the 1983 payout.

Priorities for Change

Increased funding and universal coverage were the two changes in merit pay most frequently proposed by the agency officials responding to the Board's interrogatories. Three agencies also identified the need to address problems with skewed performance appraisal ratings which they encountered in their 1982 payout.

While funding was cited as a possible problem in our interrogatories to agencies, the issue of coverage was not raised. Nonetheless, eight agencies indicated in their responses that the statute should be changed to include all GS 13-15 employees under merit pay. A ninth agency, the Veterans Administration,³⁸ did not propose universal coverage, but did state that legislation was needed to simplify coverage determinations. The comments from the Department of Agriculture³⁹ reflect the general tone:

³⁶Letter from Lawrence S. Cavall, Acting Director of Personnel, U.S. Department of Agriculture, to Dennis L. Little, Director, Office of Merit Systems Review and Studies, U.S. Merit Systems Protection Board, August 4, 1983.

³⁷Letter from Delbert L. Spurlock, Jr., Assistant Secretary of the Army (Manpower and Reserve Affairs), U.S. Department of the Army, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, September 26, 1983.

³⁸Letter from Harry N. Walters, Administrator, Veterans Administration, to Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, August 8, 1983.

³⁹See note 36, this Chapter.

In placing only supervisors and management officials under merit pay, two pay systems were created covering employees in the same grades. This has resulted in comparisons of the criteria for pay increases and real and perceived inequities. Such an unnatural split has had a marked negative effect on morale. We feel that both supervisors and nonsupervisors should be subject to the same criteria for receiving pay increases. All employees in grades 13, 14, and 15 should be covered under one pay for performance system.

As indicated earlier, a majority of those responding to the Board (14 agency officials out of 20) said additional funding for merit pay was essential. Five agency officials made proposals for a shift from the present pool-type merit pay system, in which adjustments become a permanent increase in base salary, to the use of direct, one-year cash awards that are in addition to, rather than a replacement for, within-grade increases and comparability adjustments for merit pay employees. Its proponents say this approach would put merit pay employees on a more even footing with General Schedule employees, and would require continued excellence in performance from employees in order to qualify for the higher level pay in future years.

Three agency officials cited problems during 1982 with skews in their performance ratings. The Veterans Administration official⁴⁰ speculated that the underfunding of the 1981 payout and the resulting loss of money by VA merit pay employees led VA managers in some units to try to ensure higher merit pay increases for their employees in 1982 by inflating performance ratings. The Department of Education official⁴¹ also stated that it had problems with ratings that were skewed to the high side. The Treasury Department official,⁴² on the other hand, said that his agency had experienced a different type of distortion, namely:

Lack of credibility in the system. Employees lack faith in the concept of pay for performance when their merit pay increases are governed by limits in merit pay pools and predetermined distributions (emphasis added).

The Department of Education official concluded that the best remedy for distortions in the distribution of performance ratings is: "the exercise of internal control over the ratings procedures to ensure that they are equitable and fair but not grossly inflated."⁴³

⁴⁰See note 38, this Chapter.

⁴¹See note 31, this Chapter.

⁴²Letter from D. S. Burckman, Director of Personnel, U. S. Department of the Treasury, to Herbert E. Ellingwood, Chairman, U. S. Merit Systems Protection Board, August 1, 1983.

⁴³See note 31, this Chapter.

Survey Data on Merit Pay

The Board administered its Merit Principles Survey in the spring of 1983.⁴⁴ The questions, therefore, covered experience with the 1982 merit pay payout. The findings from this survey differed from OPM's recently published assessments of experience under the merit pay system from 1980-1982 in several important respects. The Board's data show much less support for merit pay, and much less optimism about the opportunities to earn more pay than OPM concludes currently exists among merit pay employees governmentwide. The study team also found little sense among the employees surveyed that merit pay was working well as a motivator of improved performance. On a more hopeful note, though, the Merit Principles Survey data show that the perceived linkage between pay and performance, while weak, was still greater for merit pay employees than for other employee groups in the work force. These findings are discussed in detail below under the headings: **Employee Acceptance, Perceived Impact on Salaries, and Merit Pay as a Motivator and Reward for Performance.**

Employee Acceptance

The Board's data show less support for merit pay than do OPM's assessment of the program in its August 1983 report: Significant Progress in Pay-For-Performance 1980-1982. In its report, OPM draws the following conclusions:

And, pay for performance, presently effective only for higher-graded managers and supervisors, has been effective in providing greater rewards for above-average performers, while achieving a high degree of acceptance among employees The experience thus far with the merit pay system, as shown in test year experience as well as OPM's regular evaluations, demonstrates clearly the program's success. Where the performance appraisal system on which merit pay is based is sound, or even marginally sound, the system gives the desired payouts, and is perceived as fair by employees.⁴⁵

The Board's survey did not directly ask about the acceptance or perceived fairness of the merit pay system. However, it did ask several questions which are closely related. These were:

⁴⁴The survey used a stratified sample that was specially weighted to get a representative response from employees at the GS 13-15 level in the 22 major departments and independent agencies covered by the survey. Merit pay was covered in a separate section of the questionnaire which was answered only by employees in grades 12-15. Skip patterns were established to screen out employees who were unfamiliar with merit pay. Screening questions were also used to distinguish between those who were currently eligible to enter merit pay (i.e., GS 12-15 employees) and those who were actually covered under the system at the time of the survey (i.e., GS 13-15 employees). Respondents' answers to the demographic section of the questionnaire were used as a second check to ensure that only legitimate responses were counted for analysis purposes.

⁴⁵Progress, p. 9.

Q. 26. In general, do you support having your pay based upon how well you perform?

Q. 28. If you had a choice, would you choose to be covered by your agency's current merit pay system?

The response to these questions by the participants in the Merit Principles Survey did not reflect the widespread support for merit pay which OPM said exists in the merit pay work force. As Chart 3-4 shows, while support for having pay based on performance was high, few respondents say they would voluntarily choose coverage under their agency's current merit pay system. The margins of difference are large with nearly nine employees in ten saying yes to a pay-performance linkage and less than three in ten choosing coverage under merit pay.

Perceived Impact on Salaries

Another of OPM's conclusions in Significant Progress in Pay-For-Performance deals with how merit pay has affected the salaries of covered employees. OPM asserts that substantial increases are available for good performers. The Board's survey respondents were much more pessimistic about the effects of merit pay on their salaries.

As stated earlier, during the first year of Government-wide implementation, large numbers of employees lost money in the transition to merit pay compared to what they would have received under General Schedule pay rules. (OPM estimated about 25 percent of all merit pay employees lost money.) Despite this 1981 experience, OPM states that:

Outstanding performers easily can receive the equivalent of step increases three steps above where they would be under the old general schedule within-grade system. Most employees do as well as they would have under the old system, while more than one-quarter of employees are better off under pay-for-performance because of the financial rewards given them for their better-than-average performance.⁴⁶

In reviewing the results of merit pay Government-wide during 1980-1982, OPM acknowledges that it is relying heavily on the results of its internal implementation of the program. OPM states that in its own work force about 45 percent of employees received approximately what they would have under the within-grade system. About 31 percent of employees received less, and "nearly one-fourth (24%) received substantially more than they would have been compensated without pay-for-performance."⁴⁷ OPM says that in its own system: "7 out of 10 employees are being compensated as well or better after three years of merit pay" and that "This conclusion for OPM can be generalized governmentwide by the agency data which are available in OPM's Government-wide management information system."⁴⁸

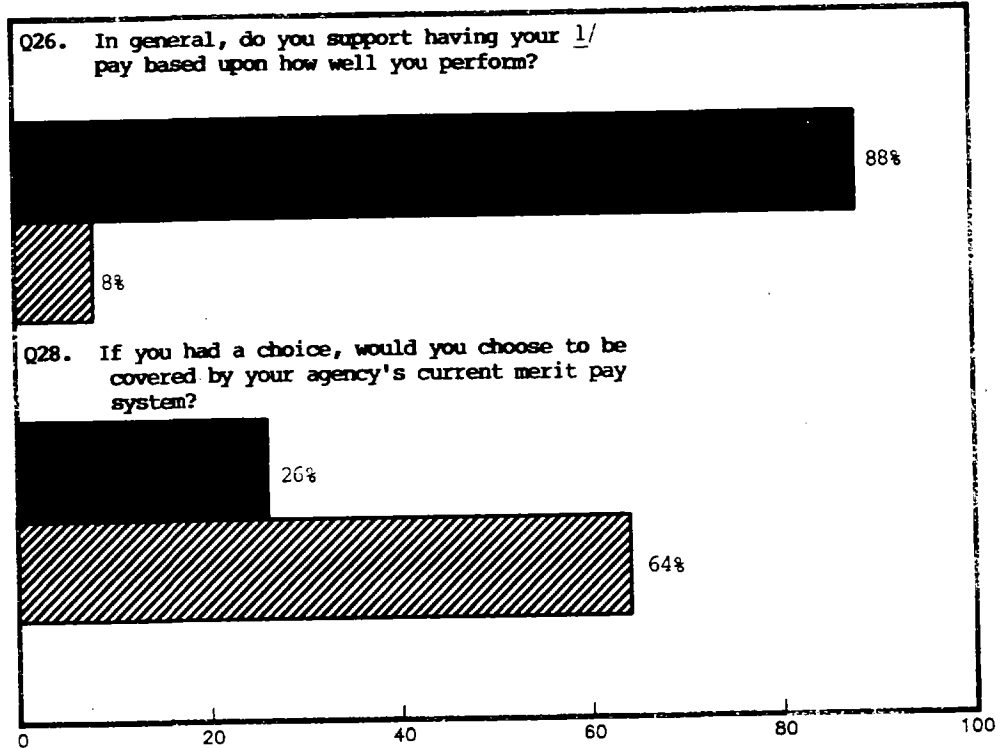
⁴⁶Progress, p. 7.

⁴⁷Ibid., p. 9.

⁴⁸Ibid.


CHART 3-4

Choice to Have Pay Linked to Performance
v.
Choice to be Covered Under Merit Pay



1/ Responses are from employees in Grades GS 13-15 who indicated they were both currently covered by merit pay and had: "A great deal", "quite a bit", or "some" knowledge of their agency's merit pay system. The total of unweighted responses for both questions is 1272.

*  *Includes responses "Definitely yes" and "Probably yes"

**  **Includes responses "Definitely not" and "Probably not"

Respondents: Representative of all merit pay employees in the Federal work force.

Number of respondents: 1,272.

Chart does not include responses "Not sure" and "Don't know/Can't judge"

The Merit Principles Survey asked employees the following:

- Q. 32. How does your present salary compare to what you would be making if your current position were not covered by the merit pay system?

The results are shown below and in Chart 3-5 and Table 3-3.

Just over five out of ten (57%) of the respondents in the Merit Principles Survey indicated that they were making about the same or more under merit pay than they would have under General Schedule pay rules. This is less than OPM's estimate of seven out of ten employees doing as well or better under merit pay.

Three percent of survey respondents say they are making substantially more under merit pay. This contrasts sharply with OPM's estimate that "one-fourth (24%) received substantially more" under its own merit pay system. In part, the question of what constitutes "substantially more" may explain the difference in these figures. Table 7 in OPM's report defines its 24 percent "Higher Than Expected" group as individuals whose pay is currently one step or more higher than it would have been under General Schedule rules. The Board's survey contained only the adjectival indicators: "substantially more," "a little more," etc. It is possible that employees did not have an accurate picture of what their pay would have been under General Schedule rules, or that in their perception, a one-step difference was not "substantially more" than they would otherwise have made.

Twenty-one percent of the Board's survey respondents said they were making "a little more" under merit pay. **The total of "a little more" (21%) and "substantially more" (3%) responses in the Board's survey does parallel OPM's overall data on the percentage of employees making more under merit pay within OPM.** However, OPM estimates that Governmentwide "more than one-quarter of employees are better off under pay-for-performance" (emphasis added). The implication is that large percentages of employees are doing much better. As stated above, the Board's data show that very few employees (37%) say they are doing substantially better under merit pay. OPM cites the test year experience in the eight agencies which implemented merit pay during 1980, as well as its own "regular evaluations" as the basis for its Government-wide estimate. If OPM's Government-wide estimate is accurate, employees covered under merit pay have a more pessimistic view of its results than is warranted.

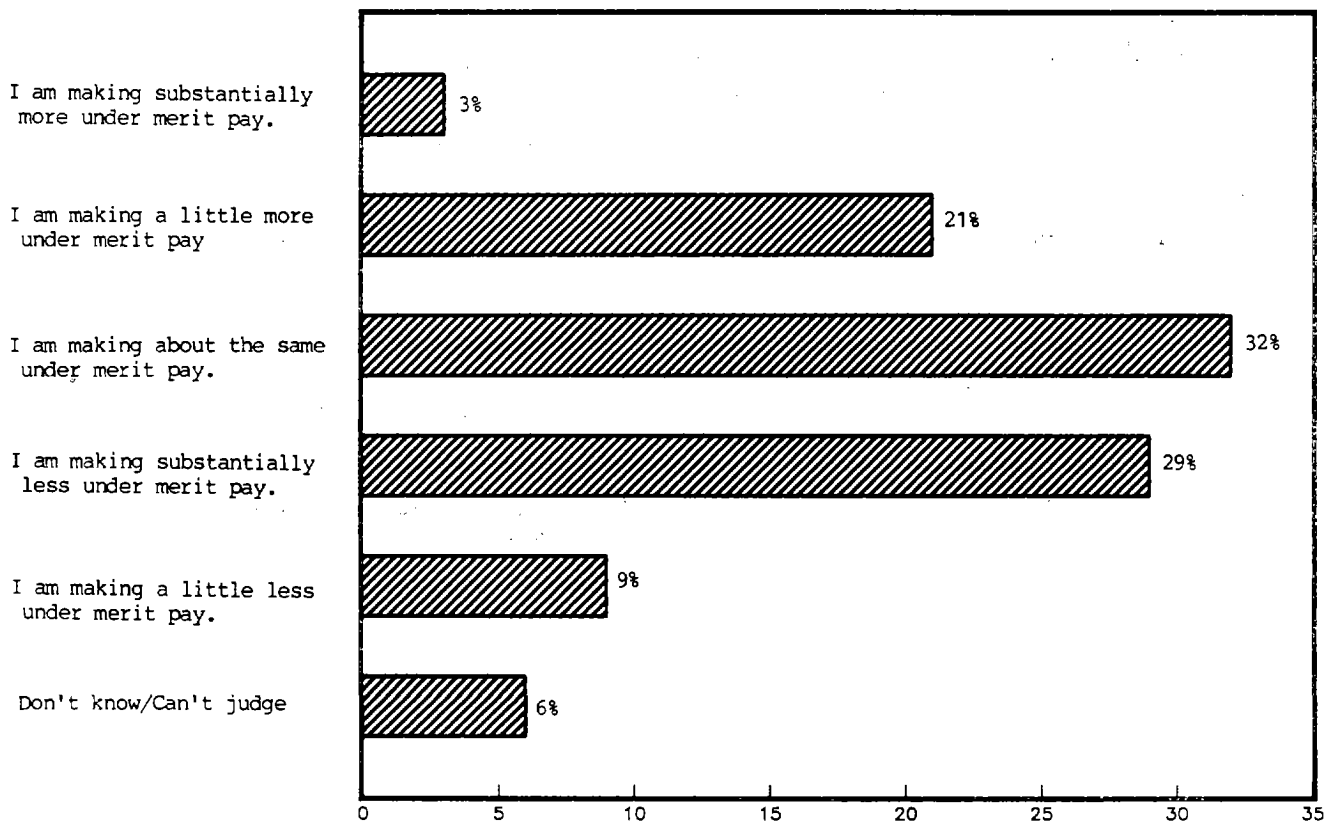
Merit Pay as a Motivator and Reward for Performance

Neither merit pay employees, nor those who supervise merit pay employees saw the program as having a significant effect as a motivator of performance. However, the perceived likelihood of receiving more pay for working harder was higher for merit pay employees than for other groups in the work force.

Chart 3-5

**Respondents Perception of How Merit Pay
Has Affected Their Salary**

**Q32. How does your present salary compare to what
you would be making if your current position
were not covered by the merit pay system?**



Respondents: Representative of all merit pay employees in the Federal work force.

Number of respondents: 1,110.

TABLE 3-3

PERCEIVED IMPACT OF MERIT PAY ON SALARIES

OPM Estimates¹

"Seven out of 10 employees are being compensated as well or better after 3 years of merit pay"

"One-fourth (24%) received substantially more than they would have been compensated without pay-for-performance."

"Nearly half of employees (45%) received approximately what they would have received under the old within-grade system."

"About 31 percent received less."

Merit Principles Survey²

"I am making substantially more under merit pay." 3%

"I am making a little more under merit pay." 21%

"I am making about the same under merit pay." 32%

"I am making a little less under merit pay." 29%

"I am making substantially less under merit pay." 9%

"Don't know/can't judge." 6%

¹Taken from OPM's publication Significant Progress in Pay-for-Performance 1980-1982. These data reflect OPM's experience with its internal implementation of merit pay. However, OPM states that its results are generalizable, and that Governmentwide seven out of ten employees are being compensated as well or better under merit pay than they would have been under General Schedule pay rules.

²Responses are for employees covered under merit pay and having at least some knowledge of the system.

In describing for the Board his experiences with merit pay during 1982, the Department of Energy official⁴⁹ wrote: "From a mechanical point of view, merit pay in 1982 was relatively trouble free. However, the systemic problems persist." After citing inconsistencies in performance appraisals, the complexity and unpredictability of funding, and problems for employees moving from the General Schedule to merit pay, the Energy official's response concluded: "In view of these deficiencies, it would be astonishing if merit pay had so far led to any general improvement in performance." In a sense, this comment is a useful reminder that the "bottom line" for merit pay is not whether it is implemented without procedural problems, but rather, whether or not it is an effective motivator of and reward for outstanding performance. Ultimately, this determination is made by the employees covered under merit pay.

Merit pay employees were asked in our survey:

- Q. 33. During 1982 was the amount of money paid to good performers in your merit pay pool large enough to encourage you personally to perform well?

We also separately analyzed merit pay employees' responses to the question addressed to our overall sample group:

- Q. 3. If you work harder in your present job, how likely is it that you will: Receive more pay?

Finally, we asked individuals who said that they supervised one or more merit pay employees:

- Q. 37. Is merit pay, as it is currently operated in your work group, an effective tool for motivating employees to improve their performance?

The responses to these questions are described in detail below.

The responses of employees covered under merit pay generally indicate that they did not see the amount of money available in their merit pay pools during 1982 as being large enough to serve as a motivator of performance. (See Chart 3-6.) Seven employees out of ten (72%) said that there was not enough money in their merit pay pool during 1982 to encourage good performance.

Supervisors of merit pay employees also did not see merit pay as an effective motivator. (See Chart 3-7.) Less than three supervisors in ten (29%) said merit pay worked well as a motivator of employees. Fifty-nine (59%) percent of respondents who said they supervised one or more merit pay employees said merit pay was not an effective tool for motivating employees to improve their performance.

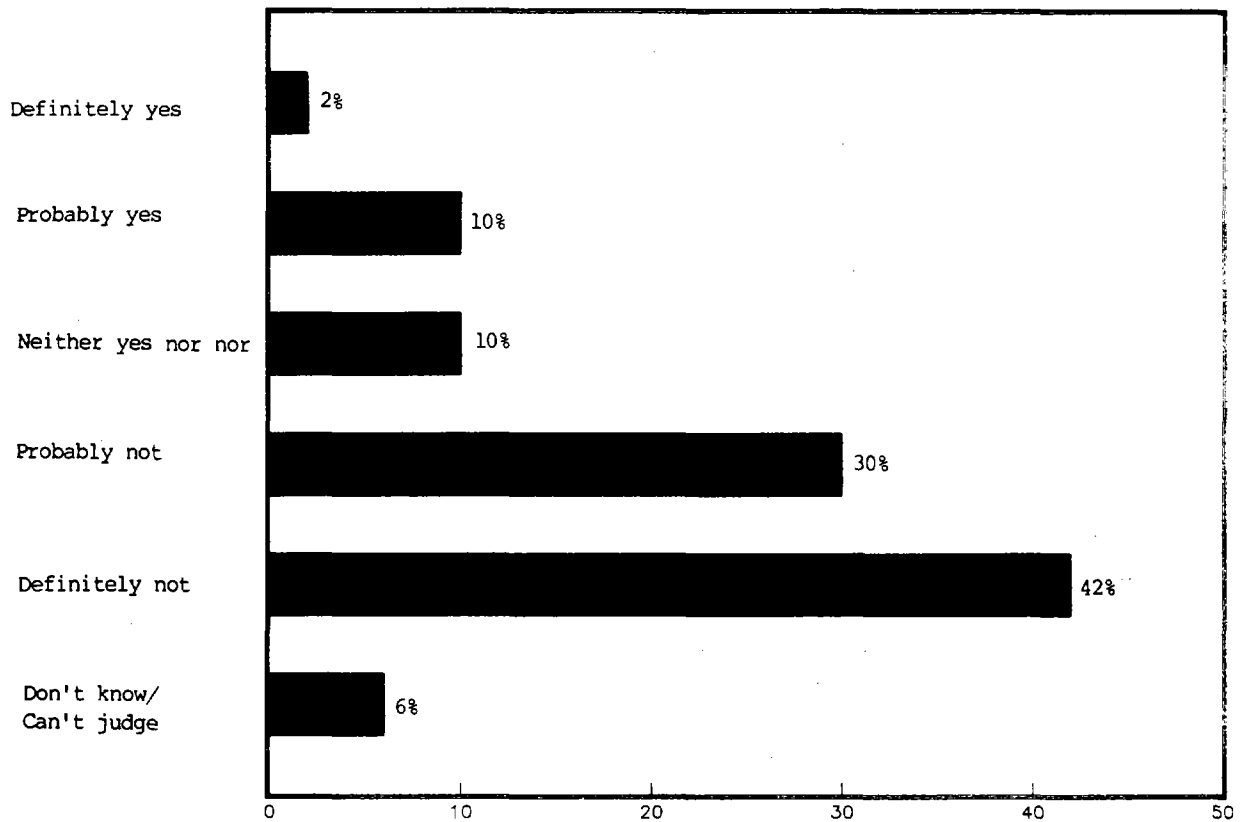
As a group, however, merit pay employees were more optimistic than the overall employee population that they would receive more pay if they worked harder in their present jobs. As noted earlier in Section 3-1, nearly seven employees out of ten (67%) in the overall survey group said they would be unlikely to receive more pay if they worked harder in their present job. Less

⁴⁹Letter from J. M. Schulman, Director of Personnel, U.S. Department of Energy, to Herbert E. Ellingwood, Chairman, U. S. Merit Systems Protection Board, July 29, 1983.

CHART 3-6

Merit Pay Pools as a Performance Motivator

Q33. During 1982 was the amount of money paid to good performers in your merit pay pool large enough to encourage you personally to perform well?



Respondents: Representative of merit pay employees in the Federal work force.

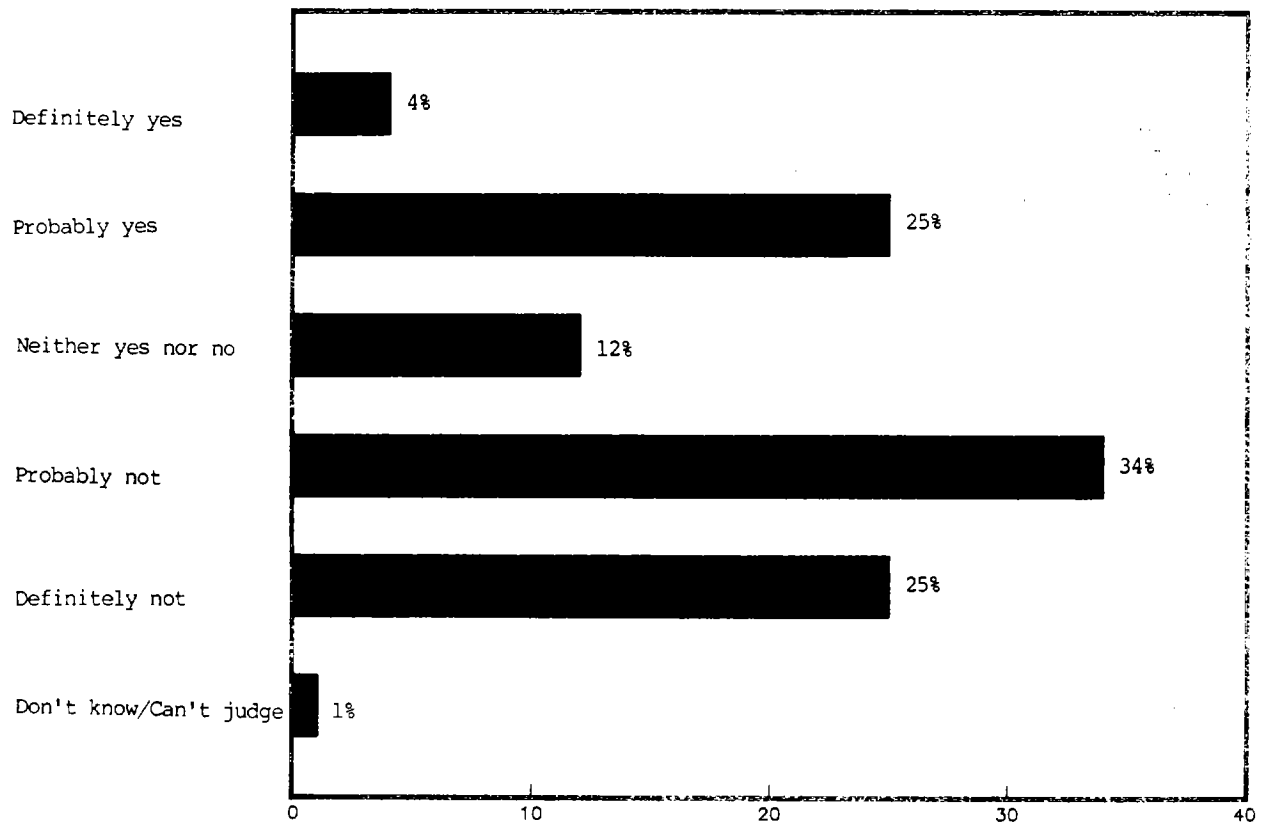
Number of respondents: 1,102.

Chart 3-7

Merit Pay as a Tool for Motivating Employees

Supervisor's Views

Q37. Is merit pay, as it is currently operated in your work group, an effective tool for motivating employees to improve their performance?



Respondents: Representative of supervisors of merit pay employees in the Federal work force.

Number of respondents: 1,621.

Percentages do not add up to 100% due to rounding.

than two out of ten (17%) said they would receive more pay if they worked harder. In contrast, more than twice as many merit pay employees said they could earn more by working harder in their current job (33%). Also, a smaller number, less than five merit pay employees in ten (46%), were doubtful of their ability to earn more by working harder in their current job.

c. Concluding Observations on Merit Pay

The finding in this section that the 1982 merit pay payout worked better than the 1981 payout is not surprising. The normal procedural problems that might have been expected in the first year of Government-wide implementation were exacerbated in 1981 by the Comptroller General's ruling limiting OPM discretion to determine merit pay funding levels. The requirement that OPM reduce funding contributed to merit pay pools for within-grade increases only applied to the transition year. Hence, the additional money available for the 1982 payout helped alleviate the severe underfunding experienced in 1981.

The most telling findings are: first, that even with full funding under the parameters established by the 1981 Comptroller General ruling, a portion of merit pay employees are still receiving smaller increases than General Schedule employees with similar ratings, and second, that revising the funding for the program is still identified as a top priority by the agencies who must implement it. This confirms the Board's conclusion in its Report on OPM Significant Actions During 1981 that merit pay will not operate properly if agencies must adhere to a "no net additional cost" funding approach like that mandated by the Comptroller General's current interpretation of the statute.

A positive sign is the indication that there does seem to be a somewhat greater sense of linkage between pay and performance among merit pay employees than in the work force as a whole. The Office of Merit Systems Review and Studies plans to analyze its Merit Principles Survey data in greater depth in the future to determine the role that merit pay as a discrete factor plays in this phenomenon. Nonetheless, the data currently available do point to the possibility that performance management as represented by merit pay may have already begun to influence employee perceptions regarding their compensation.

Section 3-4. The SES Bonus System

a. Introduction to the SES Bonus System

This section examines how executives feel about the Senior Executive Service's system of bonuses and rewards. The Merit Principles Survey asked executives if they felt that SES bonuses were earned, if there were enough bonuses so that if they performed well they would have a chance of receiving one, and whether bonuses were distributed equitably. In some cases, the 1983 findings will be compared with findings from the Board's 1981 survey of the SES.

In establishing the SES, Congress sought to establish meaningful incentives and rewards for the executives who filled the top jobs in Government. The Civil Service Reform Act promised Government executives a "pay-for-performance" compensation system. It authorized agencies to pay out annual bonuses of up to 20 percent of salary to up to 50 percent of their senior executive cadre. In

addition to this, career executives whose performance was rated as exceptional were eligible to be awarded the rank of Meritorious or Distinguished Executive. These rank awards, presented by the President, carry with them cash bonuses of \$10,000 and \$20,000, respectively.⁵⁰ It was expected that these substantive financial benefits would motivate achievement and help build the image of the SES as an elite corps.

However, reacting to perceived abuses in the distribution of bonuses during the first year of the program, in 1981, Congress and the Office of Personnel Management changed the framework of the SES bonus system. The revised system had reduced the number of executives eligible for bonuses from 50 percent to 25 percent and then by OPM guidance to 20 percent. This 20 percent limitation was included in the FY 1982 and FY 1983 appropriations bills,⁵¹ but was not included in FY 1984. As a result, the 50 percent limit is again in effect. However, OPM has recently issued guidance stating that while the law allows that 50 percent of eligible SES members may receive awards, awards should not exceed 30 to 35 percent of the agency's career appointees.⁵²

As might be expected, the 1981 reduction from 50 percent to 20 percent in the maximum percentage of executives who could receive a bonus was not enthusiastically embraced by many senior executives. This section will examine the opinions of senior executives regarding the bonus system. The data presented in this chapter are drawn from the Board's 1983 Merit Principles Survey and 1981 Senior Executive Survey. The critical questions related to the SES bonus system and the major findings based on these critical questions are identified below.

Critical Question on the SES Bonus System

1. Does the SES bonus system provide a fair and equitable framework of incentives for performance?

Major Findings on the SES Bonus System

1. Executives say there are too few bonuses available, and question the fairness of their distribution.
2. Only 10 percent of the executives surveyed thought there were enough bonuses so that if they performed well they would have a good chance of receiving one. Over one-half (52%) said bonuses were distributed disproportionately to executives at the top of the agency.

⁵⁰See 5 U.S.C. 4507.

⁵¹See Public Law 96-304, July 8, 1980 (Section 303); Public Law 96-369, Oct. 1, 1980; Public Law 97-51, Oct. 1, 1981; and Public Law 97-276, Oct. 2, 1982.

⁵²OPM issued interim regulations on Performance Awards for the SES. (See 534.403, Nov. 16, 1983.) These regulations established an SES bonus pool not to exceed three percent of the aggregate salary of career SES members on Nov. 25, 1983. OPM issued FPM Bulletin 920-65, which provided guidance to agencies on the distribution of bonus awards, and recommended that agencies not award bonuses to more than 30 to 35 percent of the career executives.

3. The majority of SES members (71%) believe that executives who work on projects of low interest to top management have little chance of receiving bonuses, regardless of how well they perform.

4. Only 40 percent of the senior executives think that those who receive bonuses earn them; 36 percent disagree.

b. Findings on the SES Bonus System

The findings on the SES bonus system are discussed below under two subheadings: **Availability of Bonuses** and **Fairness of Distributions**.

Availability of Bonuses

The Board's 1981 survey on the Senior Executive Service asked executives what factors (including bonuses) influenced their decision to join the SES. It also asked executives how satisfied they were with their opportunity to receive bonuses and awards. The 1983 Merit Principles Survey asked several questions that were not identical but were similar enough for comparisons.

In the 1981 survey, 56 percent of the executives indicated the opportunity for major bonuses or rank awards was an important inducement for joining the SES. These same executives also expressed their disillusionment with the bonus and awards system as it existed, noting that only 26 percent of SES members eligible to receive a bonus thought that it was likely that they would receive one. Forty-eight percent thought that the receipt of a bonus was unlikely and, 26 percent were undecided.

In 1983 the Board asked executives if they felt that there were sufficient bonuses so that they would have a chance of receiving one if they performed well. When this survey was conducted, the reduction (mandated by Congress and OPM) in the number of bonuses that could be distributed to senior executives was still in effect. The study team found that executives were more disillusioned with the system in 1983 than they were in 1981. Eighty-one percent of the executives said that even if they performed well they would not have a good chance of receiving a bonus. See Chart 3-8.

Fairness of Distributions

Respondents had mixed reactions on the question of whether those who had received SES bonuses had earned them. Forty percent felt that they were earned, 36 percent felt that they were not, and the remainder were not sure.

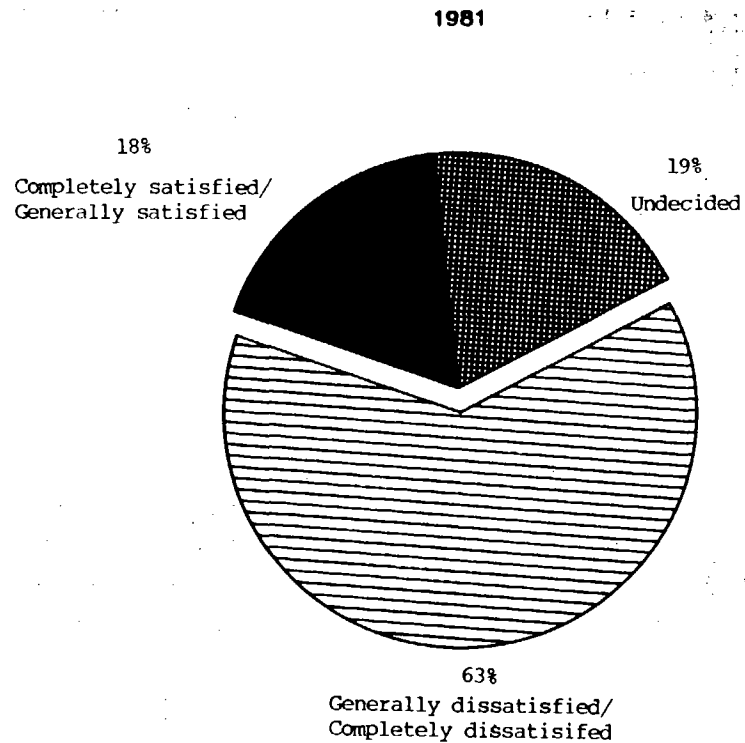
The large majority (71%) agreed that executives who work on projects of low visibility or low interest to top management have little chance of receiving a bonus regardless of how they perform. Nine percent disagreed with that statement. See Chart 3-9.

c. Concluding Observations on the SES Bonus System

The Board's Merit Principles Survey was conducted before the recent changes in law and regulation which increased the number of executives eligible for bonuses from 20 percent to 30-35 percent of each agency's executive cadre.

Chart 3-8

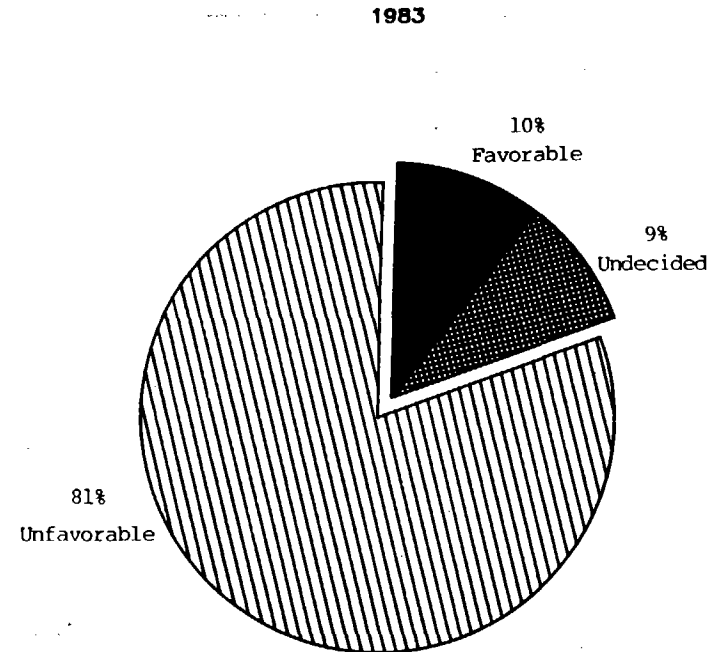
Executives' Perception That They Will Receive a Bonus: In 1981 and 1983



1981: Q55b. How satisfied are you with the changes SES has brought about in: the opportunity (for you) to receive a major bonus or rank award?

Respondents: Representative of senior executives in the Federal work force.

Total sample for the 1981 survey was 1,519.



1983: Q48b. To what extent do you agree that "There are enough bonuses so that if I perform well I have a good chance of receiving one?"

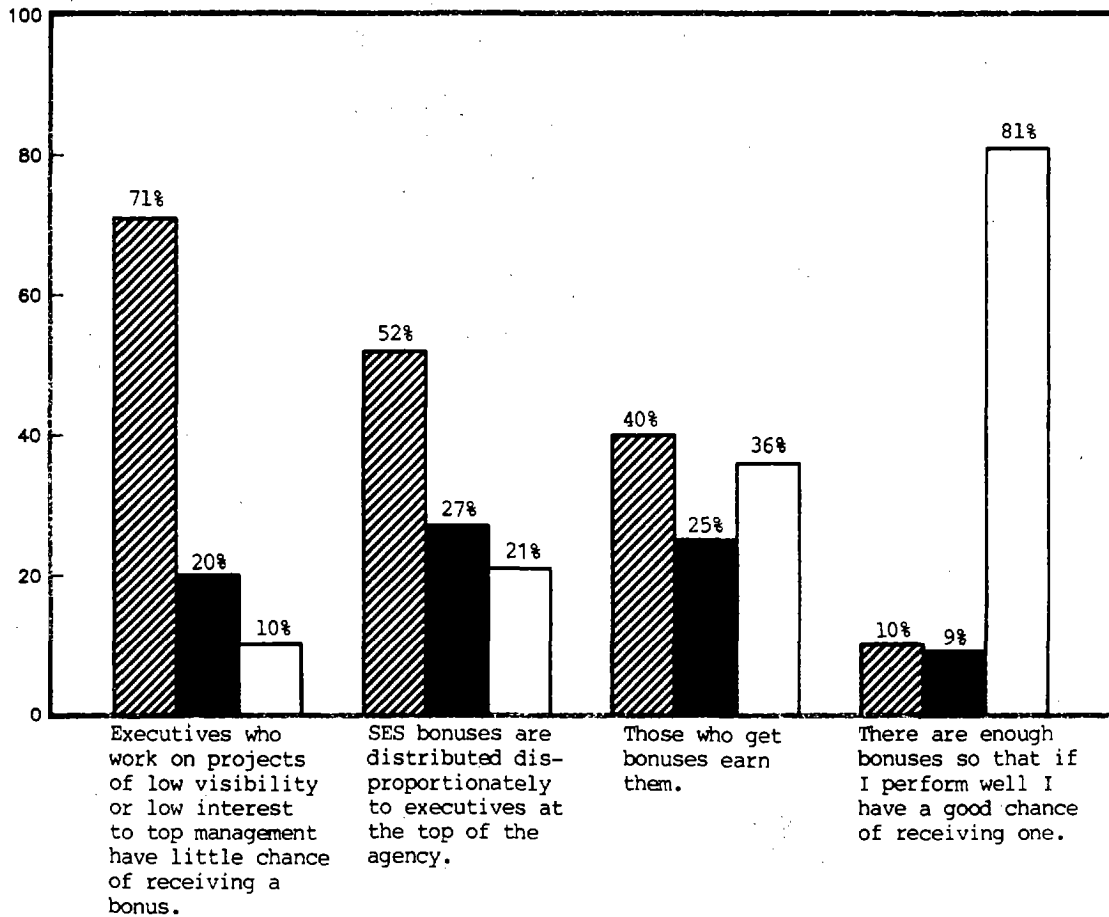
Respondents: Representative of senior executives in the Federal work force.

Number of respondents: 1,250.


Chart 3-9

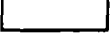
Bonuses for the Senior Executive Service

Q48. To what extent do you agree with the following statements about the Senior Executive Service?



*  *Includes responses "Strongly agree" and "Agree"

**  **Includes responses "Neither agree nor disagree" and "Don't know/Can't judge"

***  ***Includes responses "Strongly disagree" and "Disagree"

Respondents: Representative of senior executives in the Federal work force.

Number of respondents: 1,220 - 1,226.

Percentages may not add up to 100% due to rounding.

It is difficult to predict how much of an effect this 10 to 15 percent increase will have on executives' attitudes toward the bonus system. It is clear, though, that under the previous 20 percent limitation, the executives in the Board's survey believed that the bonus system was not fulfilling the statutory goal of providing incentives for performance.

Section 3-5. Dealing With Poor Performance

a. Introduction on Dealing With Poor Performance

One of the primary objectives of the Civil Service Reform Act (CSRA) of 1978 was to make it easier to remove poor performers. The rationale behind this reform was that the system existing prior to CSRA had become so complicated that Federal employees were virtually immune from removal.

President Jimmy Carter expressed this view in his message transmitting the proposed reform act to the Congress:⁵³

The simple concept of a "merit system" has grown into a tangled web of complicated rules and regulations

Managers are weakened in their ability to reward the best and most talented people--and to fire those few who are unwilling to work

The sad fact is that it is easier to promote and transfer incompetent employees than to get rid of them.

The study team examined the extent to which this goal of the CSRA has become a reality. First, the available OPM statistical data and MSPB appeals data on the actions taken to deal with poor performers were examined along with the problems associated with collecting and interpreting these data. Second, the results of the Board's Government-wide Merit Principles Survey were analyzed to determine what actions supervisors said they took to deal with poor performers and their views on the relative success of their actions.⁵⁴ Finally, the study team looked at the survey data to compare the views of employees and supervisors regarding the willingness of supervisors to take action to deal with poor performers. The critical question the study team examined on dealing with poor performance and the major findings based on these critical questions are identified below.

⁵³Message from the President transmitting a draft of proposed legislation, H.R. Doc. No. 95-299, 95th Cong., 2d sess. 3 (1978).

⁵⁴There may be some degree of variance between what questionnaire respondents say they did (or will do) in a given circumstance and what they actually did (or will do). Since most questionnaire surveys are based on the self-reported experiences of the respondents, the data may be expected to reflect a certain degree of misperception of observed events, incomplete understanding of facts, one-sided viewpoints, and self-serving recollections. To the extent possible, this was taken into account during our analysis of the data by considering the size of the sample, the nature of any trends, the consistency of the findings, and the content of any written comments. Moreover, the question of the subjectivity or objectivity of these results is to some degree irrelevant, since the beliefs of employees and supervisors, as reported herein, may ultimately influence their actions, regardless of the relative truth or falsity of those beliefs.

Critical Questions on Dealing with Poor Performance

1. To what extent was poor performance a problem in the Federal work force in FY 1982 and what actions were taken to deal with this problem?
2. What formal actions do supervisors say they are taking to deal with poor performers and what is the relative success of these actions?
3. Do employees perceive that their supervisors are willing to take appropriate action to deal with poor performers and are supervisors willing to take this action?

Major Findings on Dealing with Poor Performance

1. **Statistical data for FY 1982 on the extent of poor performers in the Federal work force and the actions taken to deal with poor performers is incomplete.** OPM does not currently collect data on the number of less-than-satisfactory performance appraisals and does not have accurate FY 1982 statistics on the number of performance-related formal actions taken. However, available OPM data for previous years and MSPB appeals data indicate that few formal actions are taken and completed for specifically performance-related reasons.
2. **The problem of poor performance in the Federal work force appears to be greater than the limited statistical data on formal actions indicate.** Over 40 percent of the supervisors in the Merit Principles Survey said that during the past two years they had personally supervised employees who did not perform at a satisfactory level.
3. **The large majority of the supervisors of poor performers said they took action to deal with them.** Supervisors most frequently (77%) say they worked with poor performers informally to improve their performance; however, one-fourth said that they had initiated formal action against these employees. (Some supervisors who worked with poor performers took more than one action against them, hence multiple responses were permitted to this question and results do not add to 100%.)
4. **Formal actions taken were often successful in getting the employee to perform satisfactorily.** Almost one-half of those who took informal action, 40 percent of those who gave poor performance ratings and around 45 percent of those who initiated formal actions, said that these actions improved performance to a satisfactory level. However, these actions were not universally successful. Almost one-third of those who took informal action, almost 45 percent who gave poor performance ratings and a little over one-third of those who took formal action, said that their efforts had not improved the employee's performance.
5. **Generally, employees thought that their supervisors would be willing to take appropriate action to deal with poor performers.** Sixty percent of the employees in the survey thought that their supervisors would try to help a poor performer improve, and almost one-half thought that their supervisors would try to remove a poor performer who could not or would not improve.

6. The overwhelming majority (87%) of the supervisors said that they would be willing to recommend formal action against poor performers if informal measures failed.

b. Findings on Dealing with Poor Performance

The findings on removals for poor performers are discussed under three subheadings: **Statistical Data Dealing with Poor Performance**, **Survey Data on Dealing with Poor Performance**, and **Views on the Willingness of Supervisors to Deal with Poor Performance**.

Background information is presented under the heading: **Steps That Supervisors Can Take to Deal With Poor Performers**.

Steps Supervisors Can Take to Deal With Poor Performers

The majority of Federal employees appear to be self-disciplined and motivated to perform well. As a basic management philosophy, it is assumed that with the proper supervision and guidance, marginal employees can become productive members of the work force. However, sometimes employees, even after counseling, are unwilling or unable to improve their performance to a satisfactory level. In some cases the problem may be solved by reassigning the employee into another job that he or she can perform satisfactorily. In other cases, managers and supervisors may find it necessary to take formal action against the unsatisfactory employee.

Before a performance-related removal or downgrade is proposed, an employee must be given the chance to demonstrate acceptable performance. The employee must be given a reasonable time to show that he or she can meet the established minimum performance standards for the critical elements of the job. If the employee fails to meet these standards, formal action may be proposed. Good management practice dictates that during this period the employee should be given guidance and counseling to improve his or her performance.

Formal action may consist of downgrading or outright removal. Actions for removal or reduction in grade may be taken when the employee performs unacceptably on any critical element at any time during the performance appraisal period.⁵⁵

The procedures for performance-related downgrades or removals are entirely separate from the procedures covering conduct-related discipline or removals (adverse actions).⁵⁶ Prior to the passage of the CSRA, performance-related actions came under the same procedures as conduct-related adverse actions. The CSRA created the separate procedures for performance-related actions in order to make it easier to remove or downgrade poor performers.

⁵⁵See 5 U.S.C. 4303; 5 CFR Part 432.

⁵⁶See 5 U.S.C. Chapter 75; 5 CFR Part 752.

To bring a successful performance-related action, the agency need only show that the employee has failed to meet minimum established standards on one or more critical elements of the job. Whereas for conduct-related actions, the agency must show that the action was taken for "such cause as will promote the efficiency of the service." The degree of evidence or proof required to support employee appeals of performance-related actions is also less than that for conduct-related adverse actions.

In unacceptable performance actions, as well as conduct-related adverse actions, employees generally have appeal rights to MSPB, or, where applicable, appeal rights under negotiated grievance procedures, but not both. Certain employees in the excepted service who are not veterans do not have appeal rights.

Statistical Data Dealing with Poor Performance

This subsection looks at the available OPM statistical data and MSPB appeals data on the actions taken to deal with poor performers and the problems associated with collecting and interpreting these data. The study team found that the available OPM data are inadequate and the MSPB appeals data are too limited to assess in any meaningful way the extent of poor performance in the Federal Government in Calendar Year 1982. The available data indicate that few formal actions are taken for specifically performance-related reasons. The findings in this subsection are discussed below under the headings **OPM Statistical Data** and **MSPB Appeals Data**.

OPM Statistical Data

In order to determine the extent of poor performance in the Federal Government in 1982, the study team attempted to obtain statistics on the number of less-than-satisfactory performance appraisals given out that year. OPM, the repository of most statistical information on employees in the Federal Government, does not presently collect data on this. **Thus, there is no systematic way of knowing how many employees throughout the Government received poor performance appraisals in 1982.**

OPM's Central Personnel Data File (CPDF) is the source of most administrative statistics on Federal employees. These data are collected on a monthly basis from approximately 1,400 Federal personnel offices throughout the Government.⁵⁷ The agencies submit this information via the Standard Form 50, "Notification of Personnel Action." Since performance appraisals are not "personnel actions" per se, the Form 50 does not contain information on performance appraisal ratings. OPM does collect performance appraisal data from the personnel offices on Merit Pay employees through a special subsystem.

⁵⁷Most personnel offices in the executive branch and a limited number in the legislative and judicial branches are required to submit data to OPM. CPDF includes all Federal civilian employees of the executive branch except local nationals in foreign countries, nonappropriated fund employees (e.g., exchange employees in Defense activities), employees of the National Security Agency, the Federal Bureau of Investigation, and the Central Intelligence Agency, and commissioned officers serving in the Environmental Protection Agency and Departments of Commerce and Health and Human Services. Also excluded are the Federal Reserve Board, the White House Office, and the Tennessee Valley Authority. In the judicial branch only the Administrative Office of the U. S. Courts is covered. In the legislative branch, the General Accounting Office, Government Printing Office, and U. S. Tax Court are included. (CPDF is described in further detail in Federal Personnel Manual Chapter 298.)

In light of the need to measure the extent of poor performance in the Federal Government, OPM should consider expanding the Merit Pay subsystem to include performance appraisal data on all employees.

The study team also sought to determine what formal actions are taken against employees whose performance is inadequate. OPM normally collects this data through the "Nature of Action" code contained on the Form 50 submitted by the personnel offices. These codes are used to describe the types of personnel actions affecting each employee, e.g., initial hire, change in health benefits, removal for unacceptable performance.

In January 1982 OPM revised these codes in order to provide greater flexibility in analyzing the CPDF data. Complications related to agency compliance with changing such a massive system produced incomplete data for over a year. **As a result, OPM does not have any accurate data on the number of performance-related formal actions taken and completed in FY 1982.**⁵⁸

In a previous report⁵⁹, MSPB pointed out some of the problems and misunderstandings that have arisen as a result of inadequate data collection on removals for poor performers. For example, the report noted that President Carter, in explaining why he wanted to incorporate provisions into the CSRA to make it easier to remove poor performers, cited statistics that only 226 people had lost their jobs for "incompetence or inefficiency" in 1976. The report went on to point out that the numbers of removals for poor performance were actually much higher than that in 1976, but that inadequate categorization of the data made all performance-related figures difficult to isolate.

Today the OPM's system has been refined to more easily identify the final performance-related formal actions taken. However, because of previous problems, for all practical purposes it is impossible to capture meaningful data prior to FY 1980. This, coupled with the absence of data for FY 1982, means that trendline data on removals for poor performance are only available for FY 1980 and 1981. Since comparable pre-CSRA data and early post-CSRA data are unavailable, the study team is unable to determine whether the CSRA has actually made it easier to remove poor performers. OPM's data for FY 1980 and 1981 are shown in Chart 3-10.

As Chart 3-10 shows, in FY 1981, 956 (8%) of the total removal actions were based on performance and 263 (2%) were based on both performance and misconduct. In addition, 3,689 employees were terminated during probation. Some of these probationers were undoubtedly separated for poor performance since that is the purpose of the probationary period.⁶⁰

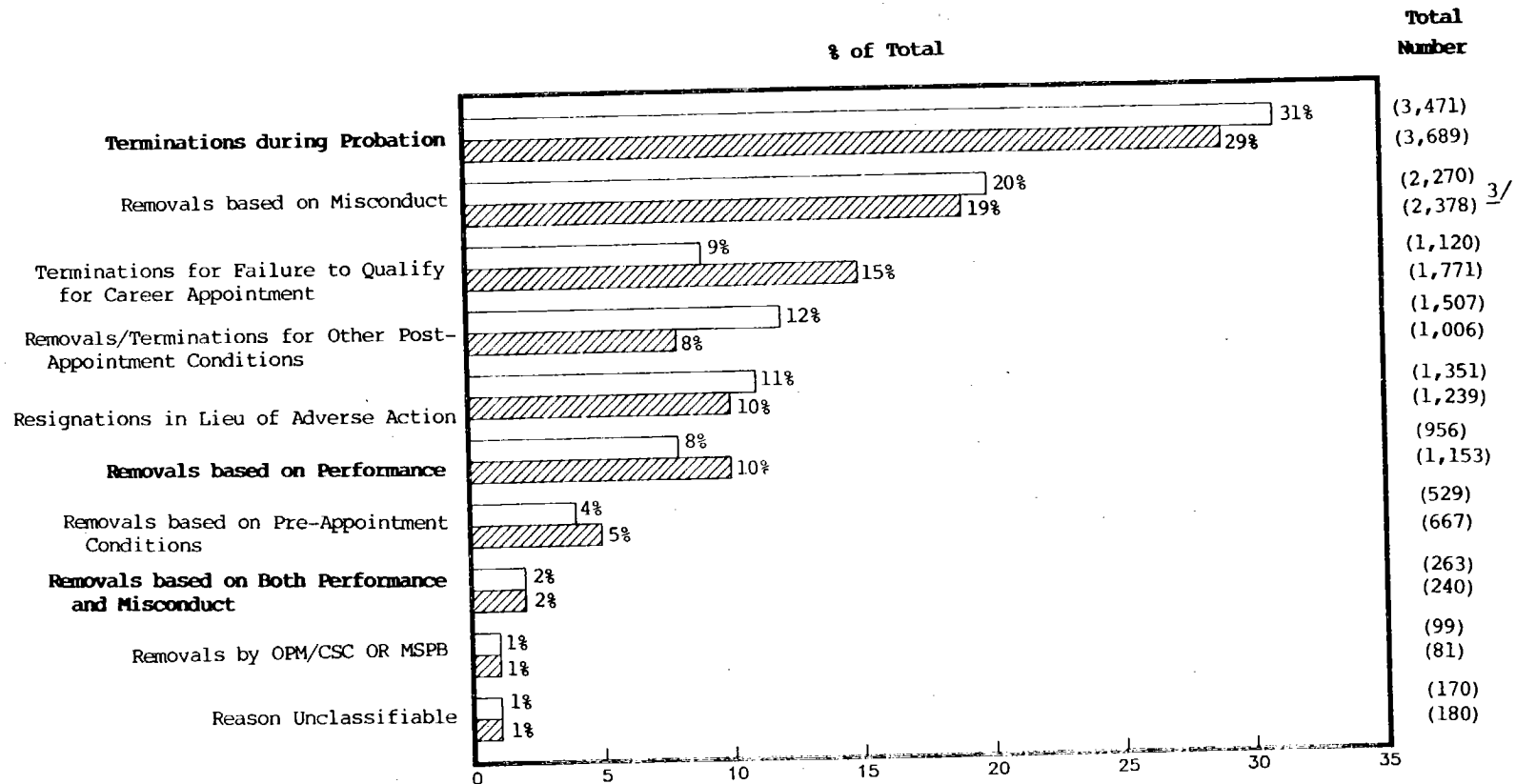
⁵⁸In order to protect the privacy of the employee, data on formal action initiated against poor performers are maintained only on completed formal actions; records are not kept on actions that were initiated by the agency and subsequently withdrawn.

⁵⁹See U.S. Merit Systems Protection Board, The Other Side of the Merit Coin: Removals for Incompetence in the Federal Service (February 1982) pp. 5-11.

⁶⁰"New Federal employees normally serve a one year probationary period, which is considered an extension of the examining process. This gives (the manager) the opportunity to evaluate on-the-job performance and permits (him or her) to separate an employee who fails to demonstrate competence on the job." U. S. Office of Personnel Management, Manager's Handbook, p. 13 (1980 Reprint).

Trends in Removals and Downgrades

Taken FY 1980 and 1981



^{1/} Source: OPM's Central Personnel Data File (CPDF). These figures show the "officially" reported reasons for these personnel actions. The data cover all agencies in the CPDF (excluding the U.S. Postal Service), and all work schedules.

^{2/} Includes 668 actions not accepted into CPDF due to erroneous agency submission.

^{3/} Figures exclude 2,378 air traffic controller misconduct discharges during August-September 1981.

1981 Total: 12,062 ^{3/}

1980 Total: 12,078 ^{2/}

1981

1980

Comparing the figures for FY 1981 with those for FY 1980 indicates that these trends have remained fairly constant, at least for the two-year period for which these figures are available. Although, as previously noted, data are not available for FY 1982, it is reasonable to assume that these trends have continued: few formal performance-related removal actions are taken against nonprobationary employees, although almost one-third of the removal actions are taken against probationary employees, many of whom are undoubtedly poor performers.

MSPB Appeals Data

The only statistics available to measure the extent of formal actions taken during FY 1982 are data on final decisions rendered by the MSPB. These reflect only the number of employees who appealed their removal or downgrade to the Board and received a decision during FY 1982. They do not reflect those actions which are still in process at the Board, were not appealed to the Board, or were withdrawn by the agency. Thus, the number of MSPB appeals is not indicative of the full scope of formal actions initiated against poor performers.

MSPB appeals data shows that only 36 performance-related formal actions were appealed to Board in FY 1982. As Table 3-4 illustrates, the number of these appeals has remained low throughout the period of the Board's operations for which data are available.

There are several possible explanations for the low number of performance-related appeals. There may be few cases of poor performance which go all the way to appeal, for example, employees may not wish to appeal since poor performance is difficult to disprove or the need for an appeal may be moot because the action has been withdrawn by the agency because the employee has resigned or improved his or her performance to satisfactory level.

Another reason may be that appeals involving poor performance may be based on conduct-related adverse actions rather than performance-related actions. As can be seen in Table 3-4 adverse actions comprise the bulk of the appeals which the Board handles. It is conceivable that the adverse action appealed to the Board included cases of employees who were in effect disciplined or removed for incompetence or inefficiency. It is also conceivable that since performance-related actions were brought under adverse action procedures prior to the CSRA, a number of agencies still prefer to use those procedures. This may be true even though the burden of proof for agencies is easier for performance-related actions than for conduct-related actions.

Survey Data on Dealing with Poor Performance

This subsection looks at the results of the Board's Government-wide Merit Principles Survey to determine the number of supervisors who said they had supervised poor performers during the last two years, what actions these supervisors took to deal with the poor performers, and their views on the relative success of their actions to improve performance. The survey found that a high number of supervisors (over 40%) said that they had supervised at

TABLE 3-4

MSPB DECISIONS RENDERED AT THE REGIONAL OFFICES BY TYPE OF APPEAL

	FY 1980 CSRA		FY 1981 CSRA		FY 1982 CSRA	
	Number	%	Number	%	Number	%
Adverse Action	2,184	60	2,851	51	2,412	45
Termination of Probationers	321	9	468	8	426	8
Performance	59	2	13	0	36	1
All Other ¹	1,077	29	2,278	41	2,488	46
TOTAL	3,641	100	5,610	100	5,362	100

¹Includes cases involving areas such as disability retirement, reduction in force, and regular retirement.

least one poor performer during the last two years. The large majority of these supervisors said that they took one or a combination of actions to deal with this problem, including informal counseling, giving a poor performance rating, or initiating formal actions against the poor performer. These actions were often, but not always, successful in getting the employee to perform satisfactorily. The findings in this subsection are discussed below under the headings **Extent of Poor Performers in the Work Force**, **Formal Actions Taken**, and **Relative Success of Actions Taken**.

Extent of Poor Performers in the Work Force

In order to determine the extent of poor performance in the Federal work force, supervisors were asked whether, during the past two years (summer 1981 to 1983), they had personally supervised employees who did not perform at a satisfactory level.

Over two-fifths (42%) responded that they had supervised at least one less-than-satisfactory employee. Although this question covered a two-year period, this suggests that the problem of poor performance in the Federal work force may be much greater than available statistical data on formal actions indicate. However, it is reasonable to assume that a number of poor performers either improved their performance or left the job, making it unnecessary to initiate formal actions against them.

Formal Actions Taken

Supervisors who said that they had supervised poor performers during the two-year period were also asked, "what did you do about the employee's performance?"⁶¹

The results clearly indicate that, in general, supervisors of poor performers take some type of action to deal with them. Only three percent of the supervisors of poor performers said that they had taken no action and one percent hadn't decided what to do. Since the supervisors were permitted to give more than one response, the responses add up to more than 100 percent. See Chart 3-11.

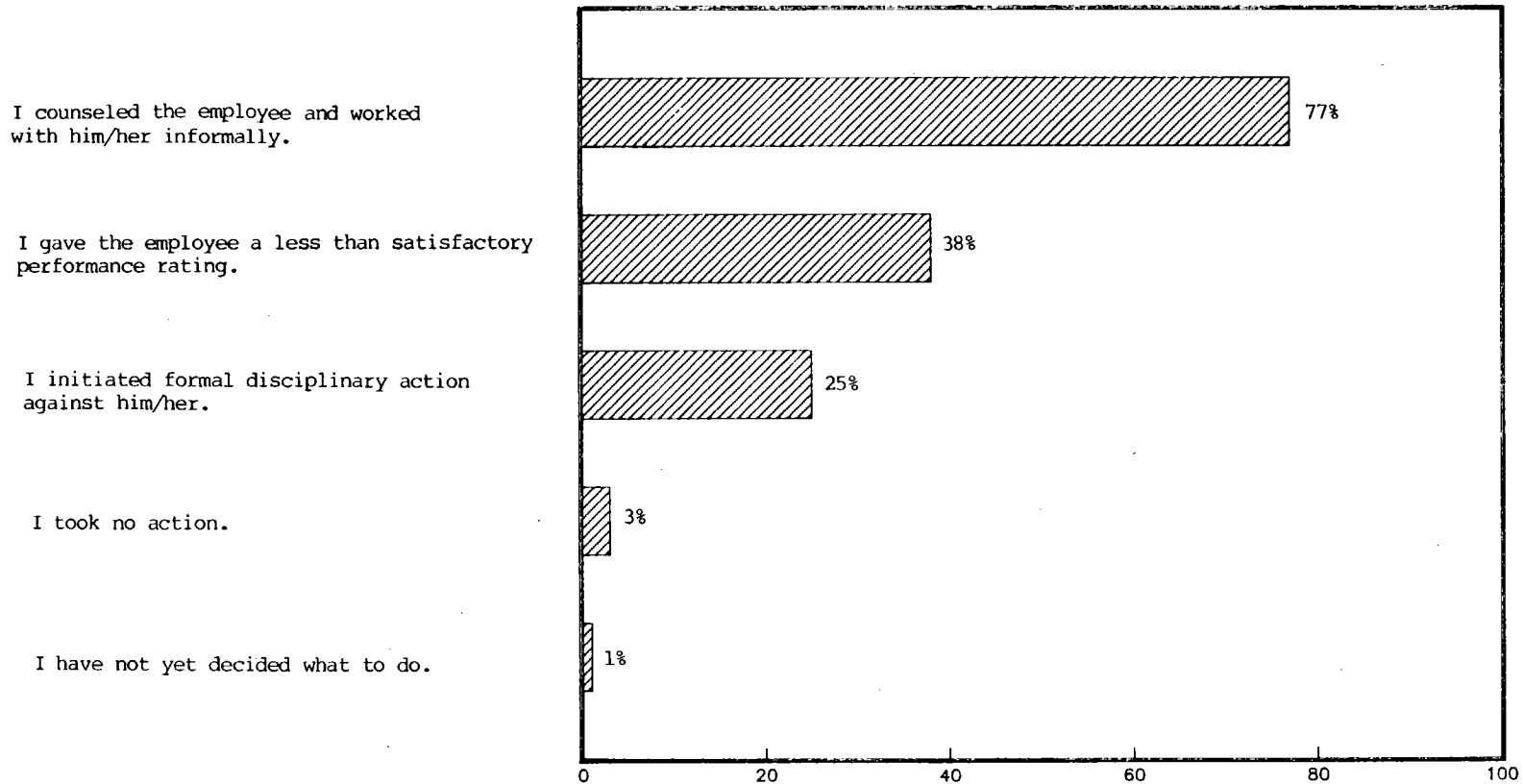
The most frequent action taken was informal counseling. Over three-fourths (77%) of the supervisors of poor performers said they counseled and informally worked with the employee. This finding is consistent with existing OPM procedures which call for supervisors to give the poor performer opportunity and guidance on how to improve performance before initiating formal action.

Nevertheless, a sizeable number of supervisors claimed they took more formal steps against the poor performer. Over one-third (38%) said that they had given the employee a less-than-satisfactory performance appraisal and one-fourth (25%) said that they had initiated formal action against the employee. These percentages represent 459 respondents who gave less-than-satisfactory performance ratings and 256 who initiated performance-related formal actions within the two-year period covered by the survey. Since this survey was based on a random sample, the number of

⁶¹If the supervisor had supervised more than one poor performer, he or she was asked to answer in terms of the most important case. If the supervisor had supervised a merit pay employee who was a poor performer, he or she was asked to answer in terms of the merit pay employee.

Actions Supervisors Took to Deal With Poor Performers

Q40. What did you do about the employee's performance?



Respondents: Representative of supervisors who have supervised poor performers in the past two years.

Number of respondents: 1,062.

Percentages add up to over 100% because this is a multiple response question (respondents were permitted to give more than one response).

respondents in the sample can be construed to represent 54,400 supervisors who gave poor performance appraisals and 35,800 supervisors who initiated performance-related formal actions in the total Federal work force⁶².

These findings shed a great deal more light on how supervisors actually respond to poor performance than do the limited statistical data on performance-related formal actions. The survey data on the number of supervisors who initiated formal actions is considerably higher than the OPM statistical data shown in Chart 3-10. Assuming that the number of final actions did not substantially increase during the different time periods covered by these two data sets, this indicates that a number of performance-related formal actions are withdrawn prior to taking final action.

This may suggest that a number of unsatisfactory employees brought their performance up to standards once formal action was proposed, thus negating the need for the agency to pursue the action. Other reasons for the withdrawals may be that poor performers were reassigned or chose to resign rather than risk the liability of being formally terminated for poor performance. The percentage of employees who improved their performance will be discussed next.

Relative Success of Actions Taken

We also asked the supervisors of poor performers how successful the approach they had taken was in "getting the employee to perform satisfactorily." Of those supervisors of poor performers who took some action, generally almost as many said that the action had been successful ("very successful" or "more successful than unsuccessful") as said that it had been unsuccessful ("very unsuccessful" or more "unsuccessful than successful"). See Chart 3-12.

Informal action, such as counseling, was found to be the most successful approach. Almost one-half (49%) of those who counseled the employee said that counseling had been successful. However, almost one-third (30%) of these supervisors said that the counseling had been unsuccessful.

Two-fifths (40%) of those who gave poor performance ratings said that this action had been successful in improving performance, whereas about the same percentage (42%) said that it had been unsuccessful. Similarly, of those who initiated formal actions, 44 percent said that this had been successful and 36 percent said that it had been unsuccessful.

Virtually none of those few supervisors who had not taken any action said that this had been a successful approach. About equal percentages of those who decided to do nothing found that this did not help either way ("neither successful nor unsuccessful") (35%), had been unsuccessful (30%), or said it was too soon to tell (35%).

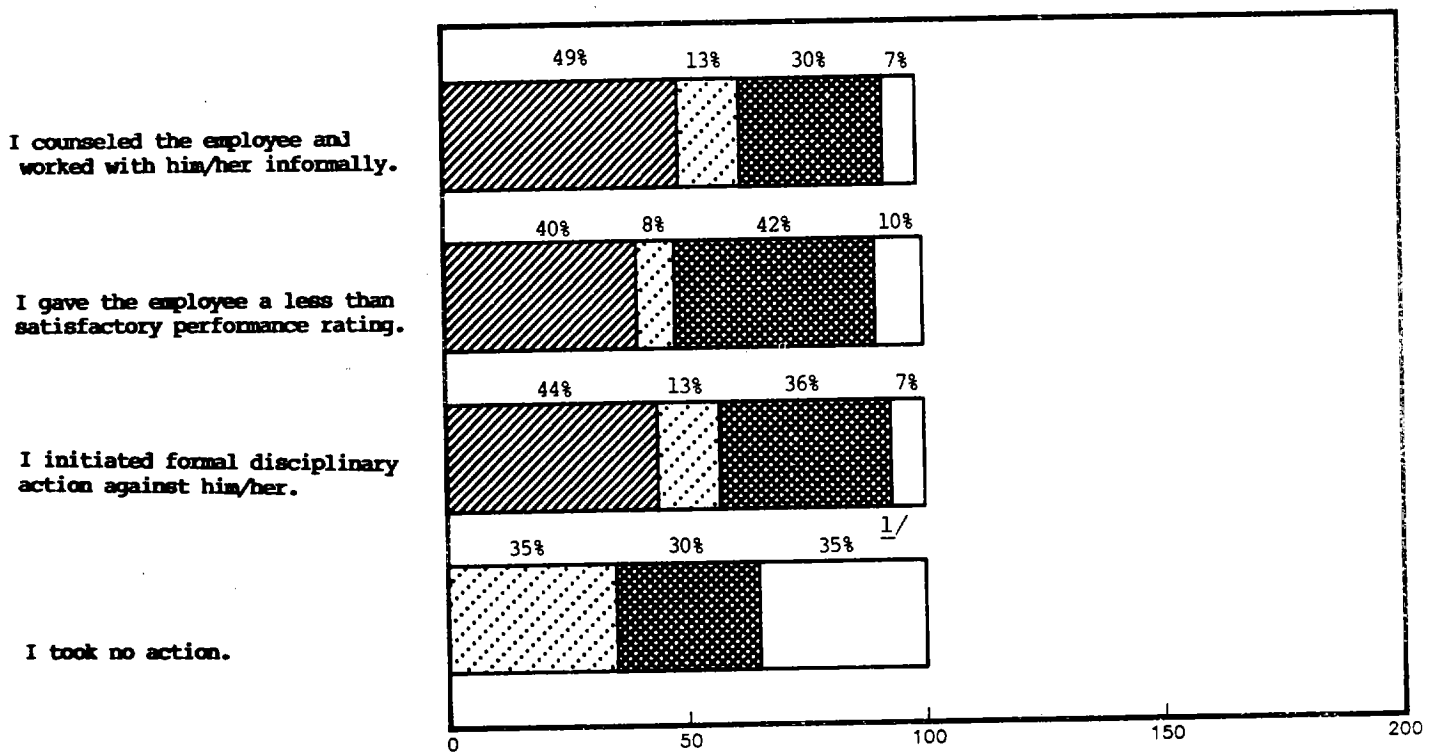
These findings indicate that many of the poor performers improved their performance as a result of actions taken by their supervisors. This suggests that the system for removals is working--some employees do improve their performance when faced with the threat or actuality of removal for poor

⁶²These figures are developed through a formal "weighting" procedure. See Appendix A for an explanation of the methodology used.

Chart 3-12

Relative Success of Actions Taken by Supervisors to Deal With Poor Performers


Q41. How successful was the approach you took in getting the employee to perform satisfactorily?





^{1/} Virtually no supervisors responded that "taking no action" was a successful/more successful approach than unsuccessful.

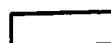
Respondents: Representative of all supervisors in the Federal work force who say they supervised one or more poor performers in the past 12 months.

Number of respondents: 1,025

Very successful/More successful than unsuccessful 

Neither successful nor unsuccessful 

More Unsuccessful than successful/Very unsuccessful 

Too soon to tell/Don't know/Can't judge 

performance. This finding also helps to confirm that some formal actions are withdrawn because employees improve their performance.

These findings also indicate that taking no action was not seen as satisfactory. Taking some sort of action, i.e., counseling, giving a poor performance rating, or initiating formal action, has a greater likelihood of getting the employee to perform satisfactorily. However, there is no one certain course of action that will consistently prove successful in improving poor performance.

Views on the Willingness of Supervisors to Deal with Poor Performance

This subsection contrasts the views of employees with those of supervisors on the willingness of supervisors to take action to deal with poor performers. Generally, the study team found that both employees and supervisors thought that supervisors would be willing to take action against chronic poor performers. However, supervisors were much more likely to say that they would take action than employees were to think that they would take action. The findings in this subsection are discussed below under the headings **Employees' Views** and **Supervisors' Views**.

Employees' Views

To determine the attitudes of employees about the willingness of their supervisors to take appropriate action in dealing with poor performers, the Merit Principles Survey asked respondents:

1. Would your supervisor try to help a poor performer improve?
2. Would your supervisor try to remove an employee who even after coaching could not or would not perform satisfactorily?⁶³

The responses indicate that employees thought that their supervisors would be more likely to help employees to improve their poor performance than to take formal action against them. Generally, employees also said that their supervisors would be willing to take formal action against poor performers if their efforts to help them improve were unsuccessful. However, a sizeable minority do not share these views. See Chart 3-13.

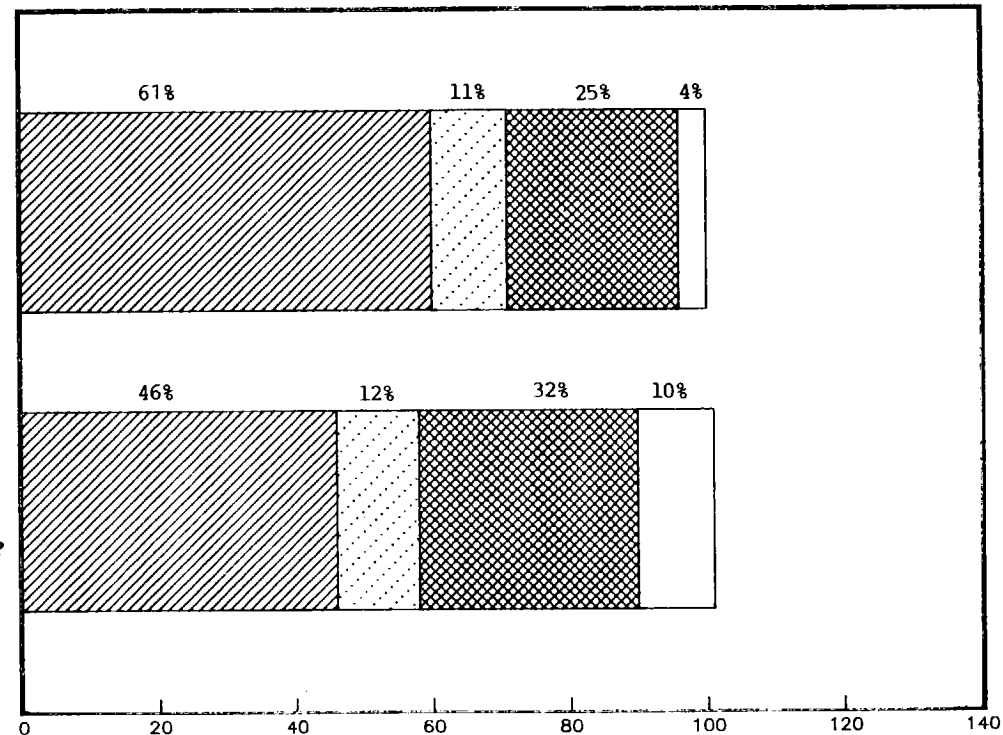
⁶³In a previous Merit Systems Review and Studies monograph, The Other Side of the Merit Coin: Removals for Incompetence in the Federal Service, February 1982, we reported the views of senior personnel officials on the willingness of their organizations to remove poor performers. We found that the senior personnel officials saw managers as failing to act to remove poor performers. These officials were asked to indicate the extent to which they felt that in their organizations "employees are removed when their performance remains unsatisfactory." Only 17 percent felt that this was happening to a considerable" or "very great" extent. On the other hand, 43 percent felt that it was happening to "little or no extent," and 37 percent only to "some" extent.

Supervisors Willingness to Deal with Poor Performers

Q4. In general, how do you feel about your job and the personnel practices in your work group?

b. Would your supervisor try to help a poor performer improve.


c. Would your supervisor try to remove an employee who even after coaching could not or would not perform satisfactorily?





Respondents: Representative of all non-supervisory employees in the Federal work force.


Number of respondents: 4,799 to 4,809 depending on the sub-question.

Percentages do not add up to 100% due to rounding.

Definitely/Probably Yes 

Neither yes nor no 

Definitely/Probably no 

Don't know/Can't judge 

We found that a majority (61%) of the respondents felt that their supervisors would "definitely" or "probably" help a poor performer improve his or her performance. Only one-fourth (25%) thought their supervisors would "definitely not" or "probably not" take this action and 11 percent responded "neither yes nor no," and four percent responded "don't know/can't judge."

Almost one-half (46%) of employees said that their supervisors would "definitely" or "probably" try to remove the poor performer who would not improve even after counseling. Almost one-third (32%) did not think that their supervisors would take this action, 12 percent responded "neither yes nor no" and 10 percent said "don't know/can't judge."

It appears that the threat of removal for poor performance is not a viable management tool for about one-third of the Federal work force. One possible reason for this may be that employees think that their supervisors would initiate other less drastic action, such as reassignment to another position. Or they may simply perceive a reluctance on the part of supervisors to overtly "fire" employees out of concern for them as people.

Supervisors' Views

The study team made a comparison between the opinions of employees and supervisors regarding the willingness of supervisors to deal with poor performers. The Merit Principles Survey asked all supervisors "if, in the future, you supervise an employee who does not perform satisfactorily, will you recommend formal disciplinary action if informal measures fail?" (The supervisors were not asked specifically whether they would help employees to improve.) The responses indicated overwhelmingly that supervisors would be willing to recommend formal action in the future. See Chart 3-14.

Over one-half (59%) of the supervisors said that it was "very likely" and over one-fourth (29%) said that it was "more likely than unlikely" that they would recommend such action. In other words, 87 percent of all the supervisors indicated that it is likely they would in the future recommend formal action against poor performers if informal measures fail.

Only eight percent of the supervisors said that it "very unlikely" or "more unlikely than likely" that they would do so. The rest of the supervisors responded "neither likely nor unlikely" (4%) or "don't know/can't judge" (1%).

The supervisors in our survey, therefore, say they are fully prepared to take formal action against poor performers who cannot or will not meet performance standards. They have a more positive attitude about their willingness to take this action than their employees. (See Chart 3-14.)

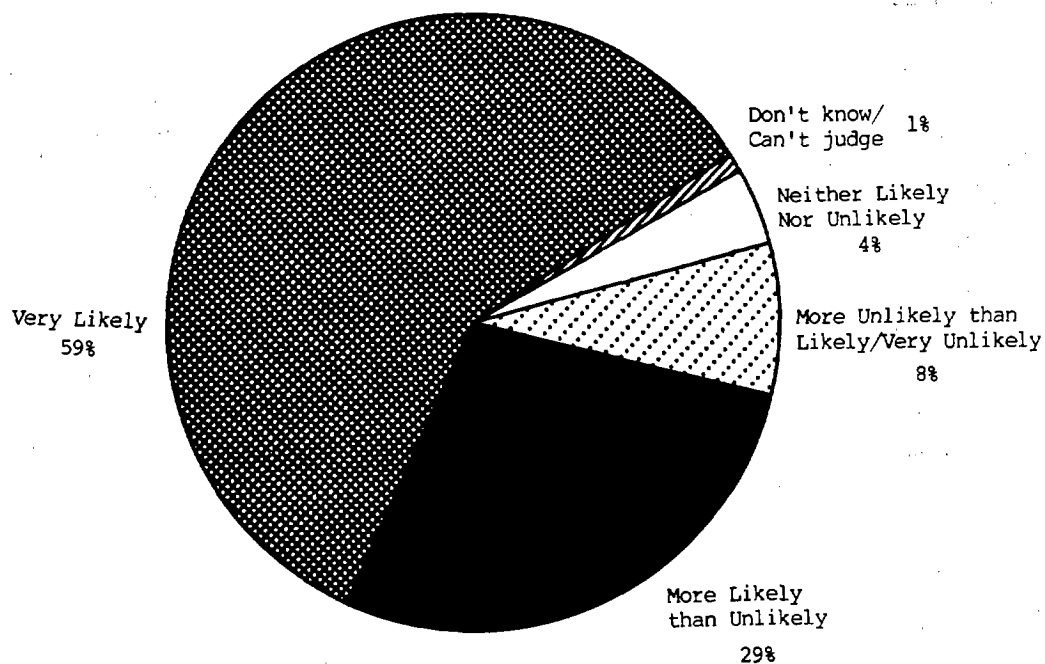
c. Concluding Observations on Dealing with Poor Performance

On balance, it is difficult to assess whether the CSRA has made it easier to remove poor performers. The available statistical data on these actions are either not collected or are too incomplete for a pre- and post-CSRA analysis. Data collected from the Merit Principles Survey suggest that the extent of poor performance is much greater than the limited available statistical information would indicate. However, statistical data on

Chart 3-14

Willingness of Supervisors to Take Formal Action in the Future

Q42. If, in the future, you supervise an employee who does not perform satisfactorily, will you recommend formal disciplinary action if informal measures fail?



Respondents: Representative of all supervisors in the Federal work force.

Number of respondents: 2,691.

Percentages do not add up to 100% due to rounding.

completed formal actions, even if accurate, would never indicate the absolute extent of poor performance in the Federal work force. Taking formal action is designed to be the last step in dealing with poor performers who cannot or will not improve performance even after being given a chance to improve. If the employee improves or leaves, there is no need to initiate or continue a formal action since the problem has been "solved."

The Board's survey data indicate that many of the poor performers did improve their performance as a result of actions taken by their supervisors. The vast majority of the supervisors did not ignore the problem of poor performance, but took one or a combination of actions, including informal counseling, giving a poor performance rating, and initiating formal actions against the poor performer. These actions were often successful in getting the employee to perform satisfactorily.

The survey attitudinal data indicate that employees are aware that their supervisors had taken actions to deal with poor performers. Employees generally perceived that their supervisors were willing to take appropriate action to deal with poor performers. Moreover, the large majority of supervisors, including those who had not supervised poor performers in the last two years, indicated that they would be willing to take formal action against poor performers if informal measures failed.

C. CONCLUDING OBSERVATIONS

During 1982, there were several major efforts underway to search for means of reducing the costs and improving the productivity of Government programs.⁶⁴ Clearly, improving work force productivity is a major element in improving governmental productivity. In this regard, the simplest question may be the most relevant: "What are the incentives and rewards for those who work harder?"

Based on the data discussed in this chapter, the study team concludes that the prognosis for the Government's incentive and reward personnel authorities is in some respects better, and in some respects worse than conventional wisdom might indicate. For example, few employees believe that working harder will lead to higher pay, a better job, or tangible nonpay rewards. Few SES executives feel they will receive a bonus even if they perform well. On the other hand, extra effort does not go wholly unrewarded in Federal jobs.

Nearly six out of ten employees (59%) say it's likely they will be recognized as a good performer if they work harder. How important is "recognition"? Respondents in the Board's survey who said performance appraisal did not motivate them to perform better were given a list of possible procedural deficiencies and asked to indicate which most affected the system's failure. Sixteen percent wrote in comments stating that performance appraisal was not a motivator because they worked for "personal pride" rather than because of external measures. This made self-motivation the third most important factor affecting the performance appraisal process.

It is also notable that self-motivation was ranked as a more important factor in the success or failure of performance appraisal as a motivator than the system's more methodological elements, i.e., the content and/or application

⁶⁴For example, see Task Force Report on Personnel Management, prepared by the President's Private Sector Survey on Cost Control, dated April 15, 1983.

of employee performance standards by the supervisor. Recent General Accounting Office reports have brought to light methodological deficiencies in the standard setting and rating process in specific agencies. The Merit Principle Survey's data indicate that despite whatever methodological problems there currently are, Governmentwide, six out of ten employees believe their last performance rating gave a fair and accurate picture of their actual performance. This is a positive sign from the standpoint of winning employee confidence in the performance appraisal system.

Merit pay is an example of an incentive system that is not yet fully delivering on its promises. Agencies identified problems with funding and reported that some merit pay employees continue to receive less under merit pay than General Schedule employees with similar performance ratings. Few employees would choose to be covered under current merit pay systems (less than three in ten). Only three percent of the merit pay employees in the Board's survey said they were making substantially more under merit pay. Finally, both merit pay employees and those who supervise merit pay employees were skeptical about the system's effectiveness as a motivator of improved performance.

Even with all these problems there are still some positive indicators in the merit pay program. About one-half (56%) of the merit pay employees surveyed said they were doing at least as well under merit pay as they would be if they were not covered by the program. Of these, 21 percent said they were making "a little more." The perception, discussed in the Board's last year's OPM report, that merit pay employees are disadvantaged relative to General Schedule employees, also apparently is subsiding. Also, the perceived linkage between pay and performance appears stronger for merit pay employees than it is for the rest of the work force. Only 16 percent of the overall work force believes working harder will lead to more pay. Among merit pay employees, the margin is over twice as large, 33 percent.

The picture with regard to SES bonuses is not as bright. Only ten percent of the executives surveyed believed there were enough bonuses so that they would have a good chance of receiving one if they performed well. As a group, they also questioned the fairness of the way bonuses were distributed.

The negative side of incentives to perform is removal for poor performance. As discussed in the Report on OPM Significant Actions During 1981, the image of the civil servant portrayed in the media and the popular press is frequently that of the unresponsive bureaucrat who cannot be removed regardless of how poorly he or she performs. The Board's survey data indicate that despite this reported image, Federal supervisors do take action to deal with performance problems, and a majority of employees believe there are consequences for poor performance.

The bottom line on incentives then is that while there are problems, there is also some progress, and some positive signs. Federal employees who work harder will be recognized, even though they may not be promoted or receive more pay. Supervisors are likely to take some action to help those employees who perform poorly to improve. The performance appraisal system, despite its faults, is beginning to be viewed as fair and accurate by a majority of employees. Merit pay continues to have funding problems, but there is a greater perceived linkage between pay and performance among merit pay employees than there is in the rest of the work force.

CHAPTER 4

MANAGERIAL DISCRETION AND EMPLOYEE PROTECTIONS IN THE SES

A. INTRODUCTION

The Government's highest level executives work under a special personnel system known as the Senior Executive Service (SES). It was established by the Civil Service Reform Act of 1978. In creating the SES, Congress sought to give agency heads greater authority to manage their executive resources. At the same time, Congress established special safeguards to protect career executives from partisan politics and preserve the vast institutional knowledge that these executives collectively hold. This chapter examines how well the balance between managerial discretion and employee protections is being maintained. It analyzes the results from an extensive series of questions in the Board's Merit Principles Survey which asked senior executives whether they had personally experienced or personally observed any examples of improper personnel actions taken against SES executives. It also presents an analysis of past appeals to the Merit Systems Protection Board and legal trends in this area developed by the Board's Office of the General Counsel. The critical question the study team examined and the major finding based on this critical question are identified below:

Critical Question

Are the managerial flexibilities the SES provided being used properly?

Major Finding

Neither the results of appeals to the Board, nor the Board's survey data identify any systemic patterns of improper personnel actions against senior executives. Nonetheless, the perception that the SES is failing to prevent such abuses is relatively high among SES executives. This perception contradicts what these executives report as their personal experience. Few executives say they have personally experienced or observed any abuses.

B. FINDINGS

The survey findings and the related appeals history in this area are discussed in detail below under the following headings: **SES Protections, Trends in SES Appeals, Analysis of MSPB Decisions Involving SES Appointees, and Survey Data on Improper Personnel Actions.**

SES Protections

The head of a major Federal department or agency typically manages an enterprise that surpasses all but the largest private sector firms in terms of scope of operations, total budget, staff, public visibility and impact on the public at large. In creating the SES, Congress sought to give agency heads the legitimate flexibility they needed to select and manage the team of

executives through which they carry out these very heavy responsibilities. At the same time, Congress put in place special prohibitions against arbitrary and capricious personnel actions in order to insulate career SES executives from improper political pressures.¹

SES executives are required to relocate geographically at their agency's request, and they have fewer appeal rights than other civil service employees in areas related to performance ratings, removals for poor performance, and other performance-related matters. However, the law does provide a number of substantive mechanisms to protect SES executives from arbitrary and capricious personnel actions. They also retain the civil service protections from prohibited personnel practices that are available to all other civil service employees.

Because the SES is a separate category within the Federal Civil Service covering the Government's highest administrators, mandatory safeguards and benefits relating to guaranteed placement, tenure, and grade are not available to noncareer SES members.² Likewise, career senior executives do not have recourse to the systems which protect most other Federal employees from adverse personnel actions. They are, however, covered by the special protections summarized in Table 4-1 and discussed in detail below.³

As Table 4-1 shows, Congress was especially sensitive to the possibility that abuses would occur during periods of political transition when a new agency head was appointed or a career executive came under the direct supervision of a new political appointee. In order to avoid potential abuses, the law forbids the transfer of career SES'ers for 120 days following the appointment of a new agency head or noncareer supervisor. The architects of the law anticipated that during this period of time, new political appointees would have an opportunity to evaluate the expertise, skills, and accomplishments of the career executives working for them. However, at the end of the 120-day period, the agency head has the right to transfer a career executive in order to better accomplish the agency's mission. The executive may not want to be transferred or reassigned; however, the possibility of a "forced" relocation is one of the risks associated with the acceptance of a position in the Senior Executive Service.⁴ Congress also wanted to make sure

¹A career appointee is one whose appointment to the SES is approved by OPM on the basis of individual executive qualifications (5 U.S.C. 3132(a)(4)).

²5 U.S.C. 3594.

³See Mathew v. EEOC, MSPB Docket No. HQ 120181100009 at 3 (October 19, 1981).

⁴At the time of the initial conversion to the SES, incumbent executives were given a choice of joining the new system, or finishing up the balance of their careers under the GS personnel system. Since the majority of executive positions were brought into the new SES system, some executives argue that those who converted into the SES from the previous system did not have quite the same circumstances of free choice as those who entered later.

TABLE 4-1

PROTECTIONS FOR CAREER SES EXECUTIVES

- No involuntary reassignments for 120 days following reassignment of new agency head or noncareer supervisor
- No performance reviews for 120 days following start of new administration
- Performance appraisals reviewed by a Performance Review Board which must have a majority of career members
- Personal rank is unaffected if assigned lower level duties as long as performing well
- Pay rates may be lowered only once a year
- A 15-day notice required in advance of reassignment
- Fallback to a GS-15 position and retention of SES salary if removed from the SES for reasons of performance
- Informal public hearings allowed if removed for reasons of performance
- Placement of RIF'ed SES employees to vacant SES positions for which they qualify
- Procedures established for outplacement of furloughed career SES members to other agencies and appeal rights to the Merit Systems Protection Board provided¹

¹ 5 CFR 359.801.

that career executives were not given formal performance appraisals before their new noncareer supervisor had a good chance to observe their performance. Thus, performance reviews are not allowed for 120 days following the start of a new administration.

Removal Provisions

Existing legislation does not allow SES employees to exercise the full "appeal" rights open to other civil service employees in performance-based actions, nor are they entitled to the same remedies. Where a wrongful removal may be set aside by the Merit Systems Protection Board under 5 U.S.C. 7701-7702 in the case of an employee "entitled to appeal,"⁵ the very portion of the law authorizing performance-based actions against an SES employee makes it clear that the career SES appointee, unlike other employees in the civil service, would not have "the right to initiate an action with the Board under section 7701"⁶ as an appeal from the agency's action. However, adverse actions (removal from the civil service and suspension for more than 14 days) taken against career SES appointees under 5 U.S.C. 7543 are appealable to the Board under 5 U.S.C. 7701.

Career appointees to the SES, who have completed their probationary period have special protections in disciplinary proceedings. If a career executive's performance is found to be less than fully successful, he or she is entitled, upon request, to an informal hearing before the Merit Systems Protection Board at least 15 days before being removed from the SES.⁷ Moreover, a career SES executive may not be removed within 120 days (a) of the appointment of the agency head, or (b) after the appointment in the agency of the member's most immediate supervisor who is a noncareer appointee with the power to remove that employee. Perhaps the most important protection is "fallback" rights. A career executive who was hired into the SES from the Federal sector has the right to be placed in a non-SES Federal position upon removal from the SES.⁸ He or she is also eligible for special salary protections to mitigate or eliminate any immediate reduction in pay.⁹

The informal hearing provided for performance-based removals permits SES members to appear and present arguments.¹⁰ The scope of the hearing is not, however, spelled out by statute or regulation. Arguments that executives might raise in their defense which are entitled to consideration at the informal hearing could include: that the removal from SES clearly violated

⁵See, for example, 5 U.S.C. 7511, 7513(d).

⁶5 U.S.C. 3592(a)(2).

⁷5 U.S.C. 3592.

⁸5 U.S.C. 3592.

⁹5 U.S.C. 3594(B).

¹⁰5 C.F.R. 1201.142.

the applicable substantive law; that the agency failed to follow the proper procedures for removal from SES; or that the action was arbitrary and capricious. A report of the proceeding (informal hearing) is distributed, not only to the employing agency but to agencies whose interests and missions are to protect the civil service system and employees from general or direct abuses of merit principles and rules.

Appeal rights for career executives who are affected by reduction-in-force (RIF) actions or removed or suspended for reasons not based on performance are treated differently in separate statutes.¹¹ Adverse actions may be taken against other Federal employees under Chapter 75 "for such cause as will promote the efficiency of the service."¹² However, under 5 U.S.C. 7543, career executives may be removed or suspended only for "misconduct, neglect of duty, or malfeasance."

In addition to the special protections discussed above, senior executives, like other civil service employees, are protected against statutorily prohibited personnel practices. These prohibited practices are defined in section 2302 of title 5 of the U.S. Code. They cover a wide range of actions such as discrimination, reprisal against employees who report fraud and waste, nepotism, attempts to coerce employees' political activities, etc. Employees who believe they are being subjected to any of these prohibited practices can request the Merit Systems Protection Board's Office of Special Counsel to temporarily halt a personnel action ("issue a stay") blocking that action from taking effect.¹³

Trends in SES Appeals

In the nearly four and one-half years since the creation of the SES, the Merit Systems Protection Board has received very few formal appeals of SES personnel actions and one request to review the legitimacy of an OPM

¹¹5 U.S.C. 3595.

¹²5 U.S.C. 7513(a).

¹³Under the provisions of 5 U.S.C. 1208(a), the Special Counsel may request any member of the Board to order a stay of any personnel action for 15 calendar days if the Special Counsel determines that there are reasonable grounds to believe that the action was taken as a result of a prohibited personnel practice. The Board Member orders such a stay unless he or she determines that based on the facts and circumstances presented, the stay would not be appropriate. If no action is taken on the request within three working days after it is filed by the Special Counsel, the stay will become effective as prescribed by law. At the request of the Special Counsel, any Member of the Board may extend a stay under 5 U.S.C. 1208(b) for up to an additional 30 days. Under 5 U.S.C. 1208(c), the Board may also, by majority vote, extend the stay for any period of time that the Board deems appropriate. However, this extension may be granted only if the Board independently concurs in the determination of the Special Counsel and only after an opportunity is provided for oral or written comment by the Special Counsel and the agency involved.

SES-related regulation. Although these cases cover the full scope of SES-related issues, the most well-publicized, and hence best-known cases, have been those involving the reassignment and detailing of SES members and cases involving performance-related actions. The cases which have come before the full Board involved the following issues:

1. Directed reassignments and details
2. Performance-based actions:
 - Removal during probation
 - Removal following probation
3. Conduct-based removals
4. Conversion: pay rate and nonselection to SES
5. Classification of position as "career reserved" (i.e., to be filled only by a career executive)
6. Use of appellate procedures in RIF situations
7. Furlough regulations

Analysis of MSPB Decisions Involving SES Appointees

Since the SES was created, the Board has issued opinions in only 14 cases involving actions against SES appointees and one request to review an SES furlough regulation issued by OPM. A detailed analysis of these cases, organized by type of case and prepared by the Board's Office of General Counsel appears below. A summary of these cases appears in Table 4-2.

Board Decisions Involving SES Appointees (15 cases)

Stays¹⁴

Special Counsel v. Department of Energy (Savitz)
MSPB Docket No. HQ 12099210053 (January 10, 1983).

The Board twice stayed the removal of Maxine Savitz, a career appointee in the Senior Executive Service (SES), from her position as Deputy Assistant Secretary for Conservation at the Department of Energy in Washington, DC, for failure to accept a directed reassignment. The Board denied a section 1208(c) stay request on the basis that there were not reasonable grounds to believe that the reassignment was a constructive removal.

Special Counsel v. Department of Energy
MSPB Docket No. HQ 12088210056 (January 4, 1983)

The Board granted the Special Counsel a section 1208(a) stay of performance-based personnel actions against certain SES career appointees. The Special Counsel charged that since the Department of Energy had made the performance ratings of career SES appointees the basis for determining their

¹⁴See note 13 of this chapter for a definition of the three types of "stays."

Table 4-2

SUMMARY OF MSPB DECISIONS INVOLVING SES APPOINTEES

ISSUE: Directed Reassignment or Detail

Case	Resolution
Special Counsel v. Energy (Savitz)	R = Board granted two stays at the request of the Special Counsel but denied 3rd stay request.
Acting Special Counsel v. Treasury	D = Dismissed - issue found to be moot.

ISSUE: Performance Ratings and Appellate Procedure for SES in RIF Situation — Artificially Structured RIF

Case	Resolution
Special Counsel v. Energy	D = Dismissed without prejudice - OPM action made the issue not ripe for review
Vanderburgh v. HHS	R = Reopened and remanded to presiding official for procedural compliance with appellate procedure

Performance-Based Action — SES Removal During Probation

Case	Resolution
Gaines v. HUD	D = Held by the Board as not appealable; request for informal hearing dismissed.
Wynes v. GSA	D = Held by the Board as not appealable; request for informal hearing dismissed.

Removal for Poor Performance

Case	Resolution
Johnson v. AID	R = Defined the limited scope of review for SES informal hearing right.
Mathew v. EEOC	R = Held that SES'ers entitled to only the particular provisions applicable to the SES.

ISSUE: Furlough Regulations

Case	Resolution
In re furloughs of career appointees in the SES (Petition from SEA)	D = Petition requesting Board review of furlough regulations denied.

Table 4-2 (continued)

ISSUE: Conduct Based Removals

Case	Resolution
Flores v. Labor	R = Reversal - agency's removal of SES'er reversed.

ISSUE: Conversion to SES/Establishment of SES Pay Rate/Nonselection to SES

Case	Resolution
Murray v. NRC	R = Remanded to regional office official for a determination of whether the alleged act was within jurisdiction.
Mundy v. Department of Defense	D = Dismissed - action was not within Board's jurisdiction.
Hersman v. NSF	R = Agency's action in not converting position to SES affirmed.

ISSUE: Classification of SES Position

Case	Resolution
Shea v. Department of Agriculture	D = Dismissed - Board held that appellants were not covered by regulations and therefore no right to appeal.

R = Reviewed
 D = Dismissed on jurisdictional or other grounds
 W = Withdrawn

retention rights in a reduction in force (RIF) under 5 U.S.C. 3595, any reduction-in-force action taken against these employees would be the result of a prohibited personnel practice. The Board dismissed without prejudice as not ripe for review a section 1208(b) stay request after the Office of Personnel Management (OPM) directed the Department of Energy to stay all personnel actions predicated upon the performance appraisal system against any of the 19 subject SES employees.

Acting Special Counsel v. Department of the Treasury (Powis)
MSPB Docket No. HQ 1208811013 (February 17, 1981)

The Board stayed the detail of Robert E. Powis from his position as Assistant Director of the Office of Investigations, U.S. Secret Service, to the position of Acting Special Agent in charge of the Washington Field Office, Washington, DC, and later denied as moot the continuation of a section 1208(b) stay after the Acting Special Counsel stated that she no longer thought there were reasonable grounds to believe that the decision to detail Powis was the result of a prohibited personnel practice.

Acting Special Counsel v. Veterans Administration, (Anderson)
MSPB Docket No. HQ 120800031 (September 19, 1980)

The Acting Special Counsel alleged that the nonselection of David L. Anderson and the selection of John Fulton for the SES position of Director, Social Work Service, VA Central Office, Washington, DC, constituted a prohibited personnel practice in violation of 5 U.S.C. 2302(b)(1). The Board granted a 15-day stay under 5 U.S.C. 1208(a) (unlawful discrimination on the basis of race and/or age and violation of OPM requirements for SES staffing).

Informal Hearings on Chapter 43 Removals

Gaines v. HUD
MSPB Docket No. HQ 12018110066 (February 3, 1983)

This proceeding arose from the request of a career appointee in the Senior Executive Service (SES) for an informal hearing under 5 U.S.C. 3592(a) upon her dismissal from the SES during her probationary period for specified performance deficiencies. The Board's administrative law judge (ALJ) dismissed the petition on the ground that the probationary SES employee had no right to a hearing. The Board reviewed that order on its own motion because this was a matter of first impression. The Board held that probationary SES members do not have redress by appeal or petition for hearing to the Board.

Wynes v. GSA
MSPB Docket No. HQ 35928219954 (February 3, 1983)

The appellant alleged in his Request for Hearing that he was first appointed to a position in the Senior Executive Service (SES) on May 3, 1982, and that on October 13, 1982, he was informed that he would be removed from the SES and reassigned effective October 31, 1982, to a position at the GM-15 level. He requested a hearing under 5 U.S.C. 3592(a) and 5 CFR 1201.141-143. The Board held that an SES career appointee removed during the probationary period has no right to an informal hearing under 5 U.S.C. 3592(a)(2).

Johnson v. AID

MSPB Docket No. HQ 35928310004 (August 11, 1983)

Appellant, a career SES appointee, was removed from the SES after being assigned an overall performance appraisal rating of "minimally satisfactory." The Board held that a career appointee removed from the SES for less than fully successful executive performance is entitled to an informal hearing before an official designated by the Board (5 U.S.C. 3592(a)(2)). The Board held that in assessing the scope of an informal hearing, there exists no power on the part of the Board to issue recommendations about an agency's action in separating one of its employees from the SES absent a significant procedural defect, a misapplication of the relevant law, or an error striking at the core of the administrative decision.

Mathew v. EEOC

MSPB Docket No. HQ 12018110009 (October 19, 1981)

Appellant, a career SES appointee, was issued a notice informing him that due to his below-satisfactory performance he would be assigned to a non-SES position. The Board's Administrative Law Judge held that Congress had determined that senior executives would have no recourse to the system which protects most other Federal employees from adverse personnel actions; rather, in the case of removal from the SES the employee must look to the particular provisions of law that apply to the senior executive, 5 U.S.C. 3591-95 and the regulations of OPM, 5 CFR Part 359.

Regulation ReviewIn Re Furloughs of Career Appointees in the Senior Executive Service (SES)

MSPB Docket No. HQ 12058210021 (September 3, 1982)

The Board declined to notice the regulation for review, stating that, if the issue of a regulation's validity can or will reach the Board through the ordinary channels of appellate review, it would not review its validity under its extraordinary but limited jurisdiction pursuant to 5 U.S.C. 1205(e).

Chapter 35 (3595(c)) RIFVanderburgh v. HHS

MSPB Docket No. DE 03518210297 (April 22, 1983)

The appellant appealed his separation by reduction-in-force (RIF) action from his position in the Senior Executive Service (SES). The presiding official held that the appeal was not within the Board's jurisdiction. The Board held that a career appointee is entitled to appeal to the Board under 5 U.S.C. 7701 from any removal by RIF procedures, under a 1981 amendment to 5 U.S.C. 3595(c) and remanded the case to the regional office.

Chapter 75 RemovalsFlores v. Labor

MSPB Docket No. DA 07528110503 (September 13, 1982)

Appellant was removed from his career SES position based on charges that he sexually harassed, in violation of Title VII of the Civil Rights Act of 1964, as amended, a subordinate female employee. The presiding official reversed the removal, finding that the agency failed to prove its charges by

a preponderance of the evidence. The Board denied the petition for review, finding that it did not demonstrate that the presiding official's factual determinations were incorrect, and reversed the removal.

Conversion Cases

Murray v. Nuclear Regulatory Commission
7 MSPB 536 (September 3, 1981)

The presiding official dismissed for lack of jurisdiction the appellant's appeal from an offer of conversion of his pay rate from GS-16, Step 9, to ES-3 in the SES. The Board held that appellant made a non-frivolous allegation of injury arising out of the conversion action and that the matter was thus within its jurisdiction. The Board noted that the presiding official erred in not affording the appellant an opportunity to comment on the agency's response to his petition for appeal, wherein it raised the jurisdictional issue. The Board reversed the initial decision and remanded the case.

Mundy v. Department of Defense
4 MSPB 358 (November 26, 1980)

Appellant appealed the action of the Department of Defense in failing to designate his GS-15 position as a position in the SES. OPM intervened and asserted that the agency's decision not to convert appellant's position to an SES position was not within the jurisdiction of the Board as appellant's position as a GS-15 employee rendered him ineligible for conversion to an SES position. The Board found that appellant was not in a position entitled to conversion to the SES under section 413 of the Reform Act and therefore appellant's case did not fall within the Board's jurisdictional purview.

Hersman v. National Science Foundation
2 MSPB 132 (April 3, 1980)

Appellant was informed that his position was found not to meet the criteria for designation as an SES position so that he was not entitled to conversion to the SES. He appealed from the determination and the presiding official affirmed the agency's decision. The Board held that the appellant's position was not "in an agency" as required by 5 U.S.C. 3132(a)(2) in order to be termed a SES position since the term "agency," as defined at 5 U.S.C. 3132(a)(1), did not include duties performed, as in the case of the appellant, for the state and local governments for which he worked. The Board found that the petitioner's only right to conversion to SES depended on the duties of the position to which he was officially assigned at the time of the conversion to SES, and that position, Special Assistant to the Director, did not warrant conversion.

Appointment/Classification

Shea, et al. v. Department of Agriculture
MSPB Docket No. DC 0317810160 (July 20, 1982)

Appellants served as Area Coordinators, GS-15, under Schedule C appointments with the Farmers Home Administration (FmHA). As a result of a reorganization, the agency developed six new positions entitled "Area Director" which it later announced as "Senior Executive Service (SES) General

Positions-Career Appointments." Appellants were among those tentatively selected for the new positions, pending approval by OPM. However, OPM's review of the qualifications and requirements of the new positions prompted the agency to reconsider and withdraw its request to have the positions designated as career reserve and instead determined that the selectees would be afforded noncareer SES appointments. Subsequently, appellants appealed this determination to the Board. On appeal, the presiding official found that the appellants were not "aggrieved" by the agency's action under the provisions of 5 C.F.R. 317.101(j) and therefore they had no right to appeal. In the absence of such a right, the presiding official found that the appeals were not within the purview of the Board's jurisdiction and, notwithstanding the issue of timeliness, dismissed the appeals. The Board found no error in the presiding official's findings and denied the petition for review.

Conclusion

The review of cases brought before the full Board involving SES members, does not reveal any trends of abuse or even a significant number of cases involving prohibited personnel practices. The cases have been too few, and under the broad authority granted to agency heads in the statute, some of the actions contested were found not to be appealable.

Some major issues have not yet been resolved. The standard for removal of SES members in 5 U.S.C. 7543 was changed from "efficiency of the service" to "misconduct, neglect of duty or malfeasance." The Board has not interpreted the above statute since its amendment. The Board has also not yet reviewed 5 U.S.C. 3595, reduction in force in the SES. A case on this issue, Vanderburgh v. HHS, MSPB Docket No. DE03518210297 (April 22, 1982), was dismissed by an MSPB regional presiding official on the basis that the Board had no jurisdiction. The Board, however, found that it did have jurisdiction under the 1981 Budget Reconciliation Act and remanded the case to the regional office. A final decision has not yet been reached.

The Board has also not reviewed OPM's SES furlough regulations. In In Re Furloughs of Career Appointees in the Senior Executive Service (SEA), MSPB Docket No. HQ12058210021 (September 3, 1982), the Senior Executive Association (SEA) request for regulation review was denied. The Board held that, if the issue of a regulation's validity can or will reach the Board through the ordinary channels of its appeal review, it would not review its validity under its extraordinary but limited jurisdiction pursuant to 5 U.S.C. 1205(e).

There are also unresolved questions about SES reassignments. Few would challenge the right of an agency head to reassign a career executive in order to improve the mission of the agency. The SES is a rank-in-person system. As in the military, individual pay and status are not linked to specific duties. While different levels of responsibility do exist, SES executives can be reassigned anywhere the agency determines they are needed. This includes positions which may have less responsibility and less visibility than their current position. It is this latter possibility which has provoked doubts about the legitimacy of proposed reassignments in the cases which have received extensive press coverage. Special Counsel v. Department of Energy, (Savitz) was probably the most visible case involving a directed reassignment. A formal appeal was not filed with the Board, however, and questions about management's discretion and SES career employees' rights in this area remain undecided.

While the cases have been few and the trends unclear, the Board's survey data indicate that SES members seem to feel that the incidents of abuse are occurring even though they themselves have not witnessed or experienced them. The next subsection examines the results of the Merit Principles Survey on this issue.

Survey Data on Improper Personnel Actions

The results of the Merit Principles Survey indicate that relatively few senior executives personally experienced or personally observed any improper personnel actions in the two years preceding the survey (July 1981 - July 1983).¹⁵ Yet, the SES members surveyed did not feel the SES has been successful in protecting executives against arbitrary personnel actions, or in providing for an executive system guided by the public interest and free from improper political interference.

While allegations of forced relocations and reassignments have received a great deal of attention, they are not the only type of arbitrary action that a senior executive might face. As noted in Table 4-1, senior executives, like all Federal employees, are protected from arbitrary and capricious actions, as well as from political coercion.¹⁶ The Merit Principles Survey asked executives if they had experienced or observed any of a wide range of possible arbitrary personnel actions including: unwarranted demotions or promotions, "shelvings" (assignment to duties not SES in nature), or artificially structured reductions in force.

Executives who reported these actions were asked what they believed was the cause of the action. The range of causes included: "buddy system," personality clashes, partisan politics, and "They wanted to put in their own person." As a check, to ascertain whether or not the action taken might not actually have been justifiable, the survey included as a possible cause the factor: "He/she was performing poorly." Obviously, if an employee was demoted or removed for poor performance, it would be an appropriate action. Indeed, the merit principles require agencies to separate employees who "cannot or will not improve their performance to meet required standards."¹⁷

¹⁵The question of what constitutes high or low levels of abuse is unavoidably a subjective judgment. Thirty-three percent of the executives surveyed said they had observed another executive being shelved (i.e., being assigned to duties not SES in nature). However, this figure may reflect several executives reporting on the same incident. The highest reported incidence of improper action personally experienced by executives in the Board's survey was 10 percent (lowering of performance rating). The study team concludes that the data from the survey, particularly the small percentages of actions which executives identified as resulting from partisan politics, do not indicate systemic abuse of SES authorities on a Government-wide scale.

¹⁶5 U.S.C. 2301 and 2302.

¹⁷5 U.S.C. 2301(b) (6).

The survey results appear in Table 4-3. As the table shows, the number of arbitrary actions both personally experienced and personally observed is relatively small. These findings are discussed in detail below:

The most frequently cited abuse experienced by executives was the arbitrary lowering of a performance rating. Ten percent (137 executives) indicated that this had happened to them. Of these 137 respondents, five percent thought that the action occurred because a manager wanted to put in his or her own person, 25 percent did not know the reason, and another 19 percent attributed the action to the "buddy system."¹⁸

Eleven percent (150 executives) reported that they observed other executives in their agency who had their performance rating arbitrarily lowered. However, they cited different reasons for the causes: 24 percent said that it was due to personality clashes and 16 percent cited partisan politics.

The second most frequently cited arbitrary action was the "shelving" of an executive by detailing or reassigning him or her to lower duties, or duties that were not SES in nature. Eight percent (98 executives) reported that "shelving" had happened to them. Thirty-five percent thought it had happened because of partisan politics, 29 percent thought that the reason was that management wanted to put in their own person and 15 percent gave personality clashes as the cause.

"Shelving" is also the arbitrary action most frequently cited as having happened to other executives. Thirty-three percent, or 422 senior executives reported that "shelving" had happened to one of their colleagues. The "observers" cite different causes than those who had personally experienced the action: 33 percent indicated that the executive was "shelved" because of poor performance (not an arbitrary action), 24 percent cited that managers wanted to put in their own person and 17 percent cited partisan politics. While on its surface the 33 percent figure seems high, it should be noted that this figure represents executives who say they observed "shelving." The problem is that several executives may be commenting on the same incident. In this respect the reported incidences of personal experience are a better indicator of occurrence. The observed figures do give insight, however, into what events are shaping executives' perceptions of the SES overall.

Respondents were not confident that the Senior Executive Service is protecting SES executives from arbitrary actions or from improper political interference. Sixteen percent of the executives we surveyed said the SES had been successful in protecting executives from arbitrary or capricious actions. Nearly four out of ten (37 percent) said this goal was not being achieved. Almost one-third (30 percent) said they did not know whether this was happening or not.

Only 24 percent of all respondents said the SES had been successful in providing an executive system which is guided by the public interest and free from political interference. Forty-five percent said that this objective was currently not being met in their agency. Twenty-four percent said they felt the system was neither successful nor unsuccessful in this respect.

¹⁸Undoubtedly, some percentage of these changes in ratings by upper level managers were based on a belief that the initial rating was inflated.

TABLE 4-3
ARBITRARY ACTIONS

ARBITRARY ACTION	THIS HAPPENED TO ME	THIS HAPPENED TO ANOTHER EXECUTIVE IN MY AGENCY
	Percentage of all SES Respondents	Percentage of all SES Respondents ¹
	(actual cases)	(actual cases) ²
1. "Shelving" an SES ³ executive	8% (98)	33% (422)
2. Forced reassignment by transfer	2% (25)	19% (272)
3. Lowering a performance rating	10% (137)	11% (150)
4. Artificially structuring a RIF	< 1% (6)	5% (46)
5. Moving career executive out of a job to make room for noncareer executive	2% (26)	10% (130)
6. Move career executive out of a job to make room for another career executive	3% (31)	12% (166)
7. Arbitrary promotion of career executive	< 1% (3)	3% (40)
8. Arbitrary promotion of noncareer executive	1% (8)	8% (92)
9. Arbitrary demotion of career executive	2% (25)	6% (80)
10. Arbitrary demotion of noncareer executive	< 1% (1)	2% (12)

¹These percents are based on a total sample of 1,250 SES'ers and are weighted to reflect Government-wide trends.

²Numbers in parentheses () represent total number of executives responding.

³Detailing or reassigning him or her to lower level duties, or duties not SES in nature.

These findings are based on the views of executives who are currently in the system. The Board is also conducting a telephone survey of executives who have retired or resigned from the SES. Approximately 500 former SES members have been interviewed. The report on the telephone survey will compare the views of present and former SES members. It is targeted for release in the spring of 1984.

C. CONCLUDING OBSERVATIONS

Respondents' perception that the SES has not been successful in protecting executives from arbitrary actions or political interference does not agree with what they report as their personal experience of such abuses. The number of arbitrary actions personally experienced was relatively small and in many cases the cause was attributed to personality clashes, performance problems, or other factors which do not constitute prohibited personnel practices. Based on the small number of executives who say they have personally experienced improper actions motivated by partisan politics, and the record of appeals actions brought to the Board in the first four and one-half years under the SES, there is no evidence that system-wide patterns of abuse of SES managerial authorities are occurring.

CHAPTER 5

RECRUITING AND RETAINING A QUALITY WORK FORCE

A. INTRODUCTION

This chapter explores the Federal Government's ability to recruit and retain a quality work force. Specifically, it examines two major issues or events which negatively impact on this ability: current and anticipated problems resulting from OPM's decision to abolish the Professional and Administrative Career Examination (PACE), and obstacles hampering the Government's ability to attract and retain competent senior executives. The data presented in this chapter are drawn primarily from the Board's 1983 Merit Principles Survey,¹ the Board's 1981 Senior Executive Service Survey,² and agency responses to interrogatories addressed by the Board.

The critical questions the study team examined and the major findings based on these critical questions are identified below.

Critical Questions

1. What is the impact of OPM's decision to abolish the PACE and establish a new Schedule B appointment authority?
2. Does the SES have a compensation system that attracts and retains competent senior executives?

Major Findings

1. There is no clear consensus on the effect the abolishment of the PACE will ultimately have on the quality of the Federal work force. There is considerable concern, however, over the potential for negative impact.
2. Agency officials predict that a major advantage of the new Schedule B appointment authority, which serves as an interim replacement for the PACE, will be increased flexibility, especially for targeted recruiting to meet affirmative action goals. They see its major disadvantage as the potential for problems in converting employees hired under this excepted service authority to competitive civil service positions.

¹See Appendix A.

²A Report on the Senior Executive Service, A Report of the U.S. Merit Systems Protection Board, September 1981.

3. OPM will need to closely monitor agency recruitment and selection procedures developed for use under the new Schedule B Authority.

4. The study team's research on problems in recruiting and retaining senior executives show that the majority of SES members believe they are paid less than their counterparts in the private sector, and that they could find a higher paying job outside the Government in the next 12 months. Many of these executives say they have been actively recruited for or have been offered a job in the private sector in the last year.

5. At the same time, a majority of Federal executives also say that they are satisfied working for the Federal Government with a primary reason being the opportunity to have an impact on public affairs.

6. In 1983, less than one-half (45%) of the merit pay employees surveyed indicated they would accept an SES level position if offered one. This is an improvement, however, over the less than one-third (31%) who responded favorably to a similar question in 1981.

B. FINDINGS

The study team's findings are discussed in detail under the section headings: 5-1. Abolishment of the Professional and Administrative Career Examination and 5-2. Recruiting and Retaining Competent Senior Executives.

5-1. Abolishment of the Professional and Administrative Career Examination

a. Introduction to Abolishment of the PACE

"This is not an ideal solution for filling professional and administrative positions in the Federal Government We will not be selecting individuals by means of the best merit-hiring procedures Merit selection is wounded, but not dead."³ These are some of the words chosen by the Director of the Office of Personnel Management in announcing the abolishment of the Professional and Administrative Career Examination and the establishment of a new Schedule B appointment authority.⁴

³Statement of Dr. Donald J. Devine, Director of the U.S. Office of Personnel Management (OPM), in an OPM news release dated May 11, 1982, announcing the abolishment of the PACE.

⁴5 U.S.C. 213.3201. This section places in a Schedule B "positions other than those of a confidential or policy-determining character for which it is not possible to hold a competitive examination."

This section examines the PACE and the events leading up to its abolishment. It also looks at: the operation of the new Schedule B appointment authority which serves as one of the interim replacements for the PACE, views from the twenty largest Federal departments and agencies on how the new Schedule B authority is working, and the probable impact of the abolishment of the PACE and the interim Schedule B authority on the quality of the Federal work force on the new merit system.

Prior to its abolishment, the PACE was the primary competitive examination device or test used by OPM to screen literally hundreds of thousands of basically qualified Federal job applicants. The PACE was used for entry-level professional positions in approximately 118 different job classifications governmentwide. In 1979, for example, there were reportedly 137,725 applicants who took the PACE and of these 6,283 were ultimately selected for appropriate positions. Abolishment of this examination and the establishment of a new appointment authority for filling professional and administrative career (PAC) positions is very clearly one of OPM's most significant actions in 1982. The critical questions related to PACE that the study team examined and the major findings based on these critical questions are identified below.

Critical Questions on Abolishment of the PACE

1. How do the current or potential users of the new Schedule B authority rate its utility?
2. What is the actual or likely impact of abolishing the PACE on the Government's long-term ability to recruit and retain a quality work force and on the merit system overall?

Major Findings on Abolishment of the PACE

1. There is no clear consensus on the effect the abolishment of the PACE will ultimately have on the quality of the Federal work force. There is considerable concern, however, over the potential for negative impact especially over the next three to four years.
2. A general Government-wide reduction in hiring and the use of various alternate methods of filling entry level professional and administrative career (PAC) positions has muted, to date, the possibly negative consequences of the PACE abolishment.
3. Agencies speculate that a major advantage of the new Schedule B appointment authority will be the increased flexibility it provides in recruiting, especially targeted recruiting relative to affirmative action goals.
4. Agency officials overwhelmingly predict that the major disadvantage of the new Schedule B authority will be the inability to convert employees hired under the excepted service authority to competitive civil service positions or to noncompetitively promote them above the GS-7 level. The new authority, however, has not yet been widely used even though it was established over a year ago.

5. The study team concludes that the weakest link in this newly formed segment of the merit system chain is likely to be contained in the multitude of agency-developed recruitment and selection strategies or procedures that will be used under the new Schedule B authority. It is also quite possible that many agency-developed selection procedures would, if challenged, be unable to meet the standards contained in the "Uniform Guidelines on Employee Selection Procedures." This was a major allegation leveled against the PACE.

6. Without additional OPM oversight, evaluation and guidance in this area, the Federal civil service system could be increasingly vulnerable to the disregard of the merit system principles and the commission of prohibited personnel practices. On the other hand, careful OPM evaluation and oversight of agency experiences under the new authority, in addition to forestalling abuses, could yield valuable information on such things as the relative merits of "decentralized" recruitment and selection.

b. Findings on Abolishment of the PACE

The findings on abolishment of the PACE are discussed below under the headings: Luevano v. Devine Lawsuit, Establishing a New Appointment Authority, and Federal Agencies Evaluate the New Schedule B Authority.

Luevano v. Devine Lawsuit

Just seven years after it was established, the PACE was abolished as the result of a law suit filed against the Federal Government. The PACE was initially set up in 1975 as the main competitive examination for individuals seeking employment in any one of a multitude of entry level professional and administrative career (PAC) positions. It was considered to be an improvement over its predecessor, the Federal Service Entrance Examination, in that it was thought to be a more reliable and valid predictor of an applicant's future job success. The top scorers of the PACE were considered for GS-5 or GS-7 grade level appointments to such career areas as claims examining, personnel management, management analysis, budget administration, general and criminal investigation, and quality assurance, to name a few.

In January 1979, a group of minority applicants who had failed to pass the PACE during the prior year filed suit against OPM claiming the test discriminated unfairly against minorities. This civil action became known as Luevano v. Devine. The plaintiffs claimed that the differential pass rates for the PACE (approximately 42 percent for whites versus 5 percent for blacks and 13 percent for Hispanics) were caused by test bias. Under the "Uniform Guidelines on Employee Selection Procedures," these differences constitute "adverse impact." In such cases, the guidelines presume that the selection device is guilty of unfair bias unless proven innocent through a complex and, according to some, a questionable validation procedure.⁵

⁵For a more thorough discussion of the Uniform Guidelines on Employee Selection Procedures, see U.S. Merit Systems Protection Board, Report on the Significant Actions of the Office of Personnel Management During 1981 (December 1982), pp. 57 - 63. In this discussion it is noted that there are serious questions as to both the validity and the utility of the Guidelines.

The case of Luevano v. Devine never came to trial. A consent decree was negotiated between the plaintiffs and the Government and approved by the Justice Department on January 9, 1981. Although opposed by the incoming administration, including the then new Director of OPM, the Government decided not to contest the decree as a whole. A few modifications were made to the decree, however, and it was then entered by the U.S. District Court on November 19, 1981. A central requirement of the decree was the abandonment of the PACE. In considering its alternatives, OPM decided to comply with the decree by early abolishment of the PACE (rather than phasing it out) and establishing a new Schedule B appointment authority. OPM announced this decision on May 11, 1982. In Federal Personnel Manual (FPM) Letter 213-32, dated September 9, 1982, OPM provided implementing instructions on the use of the new procedures to heads of the 45 Legislative and Executive Branch departments and agencies subject to the decree in September of 1982.

Establishing a New Appointment Authority

With the establishment of a new Schedule B appointment authority, OPM provided an interim and, at best, a partial solution to the void created by the abolishment of the PACE. The void exists for any Federal department or agency with a need to fill entry-level PAC positions with nonstatus applicants (i.e., typically individuals with no current or prior Federal civilian employment experience).

Without the existence of a competitive examining device such as the PACE, Federal agencies lack authority to offer competitive service appointments to nonstatus applicants. Under the new Schedule B appointment authority, Federal agencies may now make an appointment to the "excepted service." One of the main differences between the two types of appointments is that employees in the excepted service must still undergo some type of competitive examining procedure before they may be moved into a competitive service position. This means that applicants hired into entry-level PAC positions under the new authority may not transfer to other agencies or be promoted above the GS-7 grade level without first competing with other qualified applicants for the target position or grade level. In contrast, applicants hired from the PACE typically had a career ladder to at least the GS-11 grade level to which they moved noncompetitively after satisfying time-in-grade and performance requirements.

Federal Agencies Evaluate the New Schedule B Authority

On June 29, 1983, the Chairman of the Merit Systems Protection Board wrote to the heads of the twenty largest Federal departments and agencies in the Executive Branch to ask for their opinions and experiences regarding OPM policies and programs during 1982. As noted in Chapter 2 of this report, agency officials overwhelmingly regarded the abolishment of the PACE and the establishment of the Schedule B appointment authority as one of the three OPM actions during 1982 that had the most negative effect on the merit system. As evidenced by the quotation at the beginning of this section, the current Director of OPM was also less than satisfied at the turn of events which resulted in the abolishment of the PACE.

The Board's letter to agency heads asked a number of specific questions regarding the new Schedule B authority, including:

"OPM instituted the new schedule B authority described in 5 CFR 213.3202(1) as a replacement for recruiting formerly done under the Professional and Administrative Career Examination (PACE). Using [the following] rating scale, how would you rate the success of this new authority, [i.e] Outstanding, Exceeds Fully Successful, Fully Successful, Minimally Satisfactory, [or] Unsatisfactory?"

At the time of their responses (August and September 1983) only one Federal agency (the Department of Treasury) had any significant experience with actual use of the new authority. Most agencies, therefore, responded to this question on the basis of projection or speculation. In fact, as late as November 1983, the Departments of Defense, Treasury, and Health and Human Services accounted for almost 98 percent of the approximately 6,300 positions for which OPM had approved use of the authority. In addition, less than one-third of those positions had actually been filled. The study team's analysis of responses showed:

1. As of July 12, 1983, the Department of Treasury had hired 610 Revenue Officers and Tax Auditors under the new authority making them the only respondent with significant experience in this regard. **In his letter to the Board dated August 1, 1983, the Director of Personnel for the Department gave the new authority a rating of "unsatisfactory."**
2. **No Federal department or agency gave the new Schedule B authority a rating of either "outstanding" or "exceeds fully successful."**
3. **Only two of the twenty Federal departments and agencies responding to the Board's inquiry rated the authority as "fully successful" but neither had actually hired anyone under its provisions.**
4. **The majority (12 out of 20) of the agencies said that the new authority would prove to be either "unsatisfactory" or, at best, "minimally satisfactory."** Six out of the 20 agencies declined to rate the authority on a speculative basis.

On the whole, the responses from the major Federal departments and agencies in the Executive Branch affected by the consent decree under Luevano v. Devine indicate skepticism that new Schedule B appointment authority is (or will be) a satisfactory replacement for the PACE. Even though the Schedule B is only an interim replacement, this is still cause for concern.

The Board also asked agencies to identify the three greatest strengths and the greatest weaknesses of the new Schedule B authority and OPM's administration of it. There was a consensus among the agencies that the one major advantage of the new Schedule B appointment authority is the increased flexibility it provides in recruiting for PAC positions. More specifically, increased ability to meet affirmative action goals was seen as the major benefit of the greater flexibility in recruitment. Over one-half of the agencies responding to the Board mentioned this particular aspect. Follow-up conversations with officials at several agencies also revealed that, although

limited, the early experience with the authority shows a substantially higher percentage of minority candidates are being selected under the Schedule B authority than were hired under the PACE.

Agency responses also overwhelmingly predicted that the greatest weakness of the new Schedule B appointment authority would be its lack of a provision to allow conversion from the initial excepted service position to the competitive service. Sixteen agencies commented specifically on this aspect of the authority (three additional agencies simply declined comment altogether). Responsible OPM officials predict, on the other hand, that experience will show that most employees selected under the authority will be easily reached on OPM "registers"⁶ and converted through the normal competitive process without the need to resort to a special conversion authority.

Another weakness noted by a substantial number of agencies was, from their perspective, the time-consuming and somewhat cumbersome procedures with which they had to comply in order to use the authority. Among the procedures specifically noted was the requirement that they consider any employees on the OPM Displaced Employee Program and the Interagency Placement Assistance Program prior to using the authority.

Five agencies noted, as a weakness of the authority, that there would no longer be a central Government-wide application point for applicants wishing to be considered for a PAC position as there was under the PACE. This will make it more difficult for applicants and will, most likely, substantially decrease the number of employees in the applicant pool. Three agencies also noted that application of the Schedule B appointment authority does not require any standardized ranking or selection procedures among agencies and, therefore, different standards for quality control would most likely also be applied within each agency.

c. Concluding Observations on Abolishment of the PACE

Under the circumstances, OPM's abolishment of the PACE and establishment of a new Schedule B appointment authority for PAC positions was a logical decision. The full impact of that decision, however, is yet to be determined and there is cause for concern. The study team's assessment acknowledges that the current Director of OPM had his options severely limited by his predecessor's decision to enter into a consent decree which had the abandonment of the PACE as a bottom line.

One of the issues for which time and experience will be the arbiter is the major difference of opinion between OPM and a substantial majority of the Federal departments and agencies the study team queried as to how difficult it will be to convert employees hired under the new Schedule B authority to

⁶A "register" refers to a list of candidates certified by OPM as qualified for certain positions. On the list, candidates are ranked from most qualified to least qualified. The application of additional points for veterans may affect a person's relative standing on the register.

competitive civil service positions. Since most new hires are not eligible for conversion until from one to two years after initial appointment, it will be some time before enough factual information to render an informed judgment is available.

It is also the study team's assessment, however, that the quantity of candidates available for entry-level PAC positions will not be a major problem over the five-year life span of the consent decree. The study team also does not believe that the quality of the candidates will automatically be a problem. For a number of reasons, the study team disagrees with the predictions of several agencies that the lack of a conversion authority would necessarily have a deleterious effect on the quality and quantity of candidates. There may be other reasons why potential candidates for PAC positions do not apply for those positions, or if they do apply, do not accept an offer of employment. For example, as discussed in section 5-2, the current and somewhat negative image of Federal employees may dissuade some candidates from considering Federal employment. The study team does not think, however, that an agency's lack of a conversion authority is likely to be one of those reasons.

If any decline does occur in the quality of new hires, the study team believes that, more than anything else, it is likely to be related to the methods used by individual agencies to identify and select candidates under the new authority. This is based on the study team's assessment that **the weakest link in this newly forged segment of the merit system chain is apt to be the multitude of agency recruiting and selection procedures that may be used under the new Schedule B authority.** The weakness is caused by the dispersion of responsibilities under the authority and the wide variances in the formal and informal selection procedures that are likely to be used.

Past experience has shown that some agencies are simply going to do a better job than others at developing and implementing valid selection procedures. The decentralization of examining authority has potential benefits associated with it but facilitation of quality control is not one of them. This situation, therefore, increases the opportunity for (and thereby the potential incidence of) abuse of the merit system principles and the commission of prohibited personnel practices.

OPM should take the lead to ensure that any questions about the relative quality of employees hired under the new Schedule B authority can be factually answered once sufficient experience under the authority is gained. This will require the systematic development, generation, and gathering of data from those agencies which experience or anticipate significant hiring under the new Schedule B authority over the next three years. An OPM evaluation of the authority should be able to discern in greater depth its advantages and disadvantages. This information could possibly be of great value in the making of future policy decisions relative to the Federal personnel staffing program.

5-2. Recruiting and Retaining Competent Senior Executives

a. Introduction to Senior Executive Service (SES) Recruitment and Retention

This section discusses: The potential loss of talented career executives; what motivates career executives to continue working for the government; and, to what extent midlevel Federal employees aspire to the SES. The data presented are drawn from the Board's Merit Principles Survey and the Board's 1981 Senior Executive Survey."⁷

The Board's report on OPM activities in 1981 investigated the "brain drain," that is, agency problems in attracting and especially in retaining quality executives.⁸ Based on the results of interviews with personnel directors and agency executives that report concluded that the "brain drain" was not a universal problem. Rather, turnover and recruiting problems varied by agency and occupation. The most severe problems appeared to be in the scientific and technical occupations. That report also noted that the financial mobility of these specialized employees and the declining image of Federal employees were two of the main factors making it attractive to leave the Government. The critical questions the study team examined relative to SES recruitment and retention and the major findings based on these critical questions are identified below.

Critical Questions on Recruiting and Retaining Competent Senior Executives

1. Are senior executives leaving or likely to leave the Federal Government for jobs in the private sector?
2. What factors motivate senior executives to remain in the Government?
3. Do midlevel employees aspire to the SES?

Major Findings on SES Recruitment and Retention

1. Over 75 percent of senior executives think that the SES compensation system does not attract and retain competent senior executives. The majority (79%) believe that they are being paid less than their counterparts in the private sector.
2. While 67 percent of senior executives say that they could find a higher paying job outside the Government, only 18 percent indicate that they have looked for a job in the private sector within the last 12 months.

⁷U.S. Merit Systems Protection Board, A Report on the Senior Executive Service, September 1981.

⁸The Merit Systems Protection Board, Report on the Significant Actions of the Office of Personnel Management During 1981, December 1982, pp. 16-22.

3. A majority of senior executives say they remain in the Federal Government primarily because they believe in the work they do (85%) and because they feel that they have an impact on public affairs (76%). A majority (71%) of executives also indicate that the public image of Federal workers provides a reason to want to leave the Government.

5. Only 45 percent of the midlevel employees surveyed in 1983 said they would accept an SES position if given the opportunity.

b. Findings on SES Recruitment and Retention

The findings on SES recruitment and retention are discussed below under the headings: **Potential for Turnover, Reasons for Staying in or Leaving Government Service, SES Compensation as an Incentive to Stay in the Government, Comparability and the Pay Cap, and Desirability of Working in the SES.**

Potential for Turnover

The results of the Board's 1983 survey suggest that, at least in the near future, a significant number of senior executives will probably not leave the Government to go to the private sector. It appears that the fear of a widespread brain drain is unfounded. As shown in Chart 5-1, although 67 percent of executives believe that they could find higher paying jobs on the outside, in the past year only 18 percent indicated that they have actively looked for a job outside of the Government.⁹

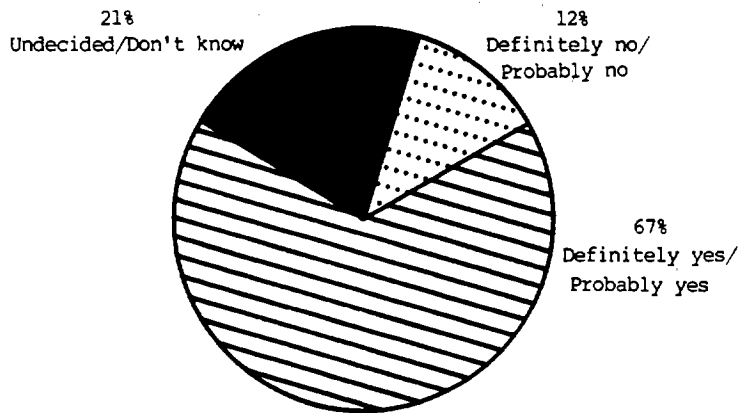
⁹GAO noted in recent testimony before the House Post Office and Civil Service Committee, Subcommittee on Civil Service, that between July 13, 1979, and June 30, 1983, 3,486 senior executives had left Government service. Of these, 1,663 resigned and 1,605 retired. According to GAO, approximately 40 percent of the career executives who converted to SES in July 1979 have left Government service. Also on October 16, 1980, executives received a 9.1 percent salary increase which meant that this additional increase would have been included in their retirement calculations. Retirement annuities are based on an average of the employee's last three years' salaries. See GAO, Detailed Statement for the Record by Charles A. Bowsher, Comptroller General of the United States, before the House, Post Office and Civil Service Committee, Subcommittee on Civil Service, November 7, 1983. See page 3 and Appendix V.

Chart 5-1

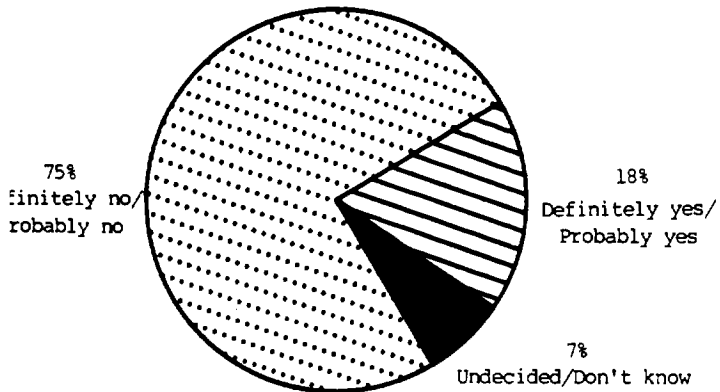
How Senior Executives Feel About Their Jobs

Q4. In general, how do you feel about your job and the personnel practices in your work group?

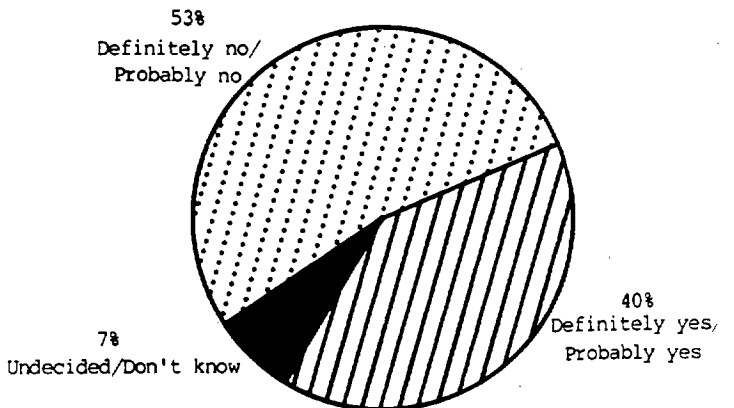
e. Could you find a higher paying job outside Government within the next 12 months?



f. During the past 12 months, have you actively looked for a job outside Government?



g. During the past 12 months, have you been actively recruited for or offered a job outside Government?



Respondents: Representative of senior executives in the Federal work force.

Number of respondents: 1,242 - 1,248.

Executives in the scientific and technical occupations were somewhat more confident that they could find higher paying jobs outside the Government.¹⁰ This is somewhat understandable given the current high demand for employees with this type of training and expertise. At the same time, a majority of executives in all occupations indicate that they have not been looking for a job outside of the Government. It is especially interesting to note, that only eight percent of executives in the medical occupations and 14 percent of executives in engineering say that they have looked for a job outside Government, compared with 30 percent of executives in the field of accounting. Even though a clear majority of executives say they are not looking for a job outside Government, many are being actively recruited. In fact, 40 percent of the executives in the Board's survey indicated that they had been actively recruited for or actually been offered a nongovernment job within the last 12 months.

Seventy-four percent of the executives in the medical occupations and 71 percent of those in computer-related occupations who said they were confident they could find a job outside the Government also indicated that they had been recruited for or actually offered a nongovernment job within the last 12 months. The question which naturally follows is what motivates executives to remain in the Federal Government and what would cause them to leave.

Reasons for Staying in or Leaving Government Service

As Chart 5-2 indicates, 85 percent of the SES respondents in the Merit Principles Survey said they remain in the Federal service because they like the work they do. In addition, 76 percent felt that the opportunity to have an impact on public affairs was another reason for staying. These findings agree with the results of an OPM study conducted in 1980 in which a majority of SES members described themselves as being highly motivated by their need to accomplish something worthwhile.¹¹

The SES system is based on the "rank-in-person" concept. In theory, this should allow SES executives latitude to move into a wider variety of higher level positions than was possible under the General Schedule (GS) system. However, only 10 percent of the executives surveyed identified promotional opportunities as a reason to stay in the Government. Over four times as many (43%) saw the promotion opportunities available to them as a reason to leave.

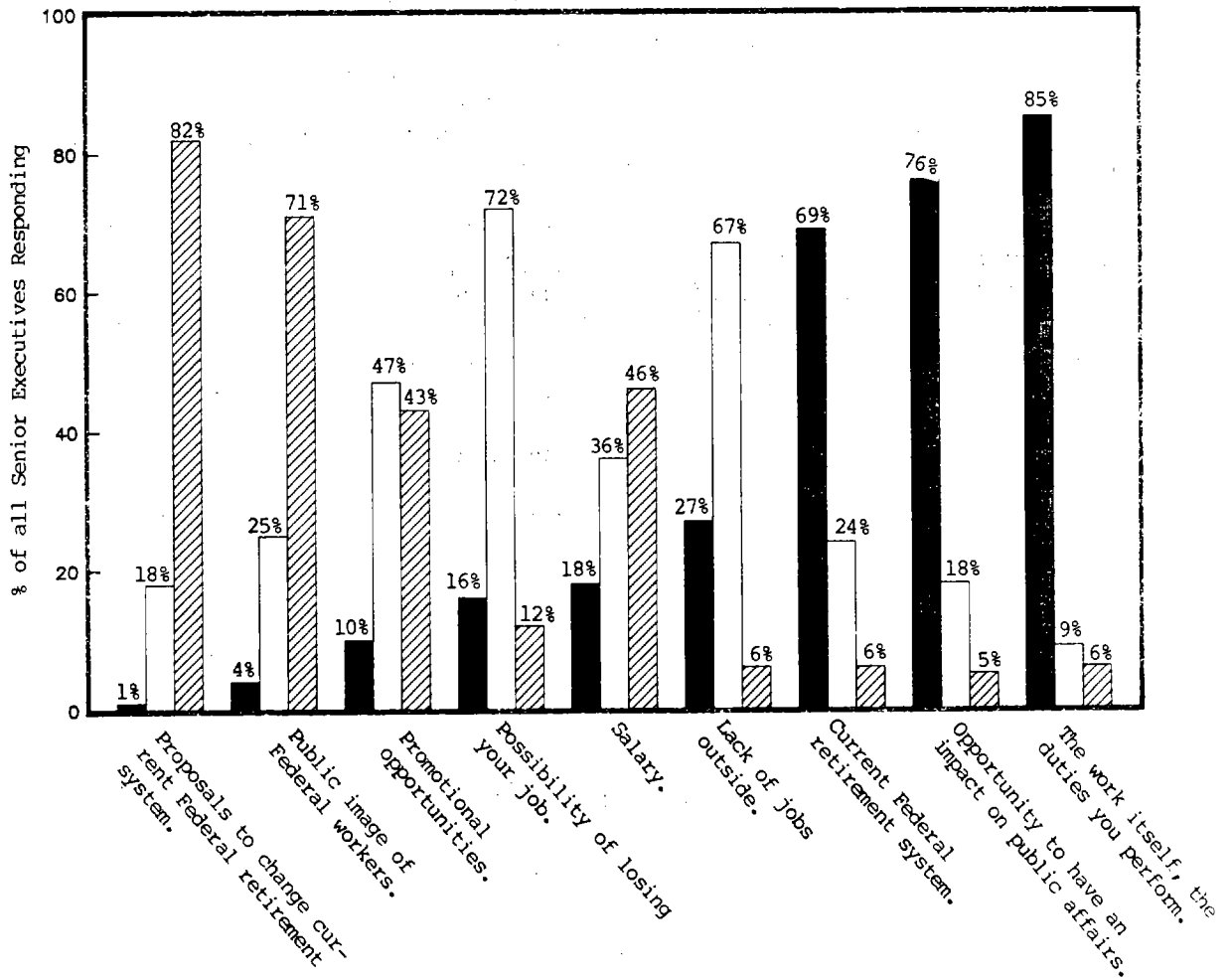
¹⁰Executives were given a choice of eight fields and asked to describe the one which best described the kind of work they did. The nine fields were: administration, computers and information systems, biological, mathematical and physical sciences, accounting, economics, medical and health, legal, and other. We are identifying scientific and technical as executives employed in computer and information systems, biology, mathematical and physical sciences, and engineering.


¹¹Office of Personnel Management Federal Employees Attitudes Survey -- Phase 2, Follow-up Survey, 1980, January 1983, p. 1.

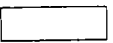
Chart 5-2


Reasons Senior Executives Give for Continuing to Work
for the Federal Government

Q6. To what extent are the following reasons
to continue working for the Government?



*  *Includes responses "Strong reason for staying in government" and "More a reason to stay than leave"

**  **Includes responses "Neither a reason to stay or leave" and "Don't know/Can't judge"

***  ***Includes responses "Strong reason for leaving government" and "More a reason to stay than leave"

Respondents: Representative of senior executives in the Federal work force.

Number of respondents: 1,230 - 1,247.

Percentages do not add up to 100% due to rounding.

Comparability and the Pay Cap

It should be of no surprise that executives continue to be dissatisfied in general with their pay and compensation. OPM noted in a 1981 study that executives' dissatisfaction with their pay was greater in 1980 than in 1979.¹⁶ One of the cornerstones of the Senior Executive Service was the premise that a delicate balance between risks and rewards should be maintained. The Civil Service Reform Act of 1978 (CSRA) denied SES members personnel protections previously granted Federal executives in return for the promise of higher salaries and rewards for superior performance. Many executives feel, however, that the promise of increased rewards never became a reality.

In past years, Congress has routinely "capped" executive salaries by placing a limit on the amount of salary that a Federal executive can earn. The prescribed ceiling has been considerably below the salaries to which executives were nominally entitled under either the General Schedule or the Senior Executive Schedule. As a result of this policy, by October 1, 1981, the "pay cap" was \$50,112.50. Without the ceiling, senior executives would have been earning more than \$61,600.¹⁷ In addition, employees who had reached the salary limitation were not able to receive financial rewards for outstanding performance. The Board's 1981 report on the Senior Executive Service discussed whether the concept of pay for performance could be a reality for executives who were "capped" in their pay range. The Board noted at that time that the "cap" had removed the monetary incentive to strive for excellence.¹⁸

¹⁶Ibid.

¹⁷Without the pay cap in FY 1981, the pay rates for senior executives should have been the following:

ES 1 = \$52,247	ES 4 = \$57,673
ES 2 = \$53,996	ES 5 = \$59,604
ES 3 = \$55,804	ES 6 = \$61,600

Although in December 1982 the pay cap was lifted to \$57,500, the majority of senior executives were still earning less than their scheduled rate. The rate for senior executives ranged from \$54,755 for ES 1, to \$57,500 for ES 6. A similar situation occurred in FY 1983 when the pay cap was set at \$63,800.

¹⁸See MSPB study, A Report on the Senior Executive Service, September 1981, page 37.

During the same period of time that the salaries of senior executives were "capped," the salaries of their subordinates continued to rise, until they too had reached the ceiling. As a result, in the same office one could find two employees with widely different levels of responsibilities receiving identical compensation. This led to situations in which executives were earning the same salary as employees several levels below them in the chain of command.

Of course, there was no equivalent pay cap in effect for executives and managers in the private sector. Therefore, while the salaries of Federal executives were frozen, their counterparts in the private sector continued to benefit from improved compensation. According to the Quadrennial Commission on Executive, Legislative, and Judicial Pay, during the period of time that the salary of Federal executives went up by five percent, the salaries of executives in the private sector realized a 40 percent increase.¹⁹ This led to a disparity in pay between comparable jobs in the public and private sectors. The ceiling on executive pay was raised in December 1982.²⁰ As the Board indicated in its report on OPM's 1981 significant actions, the pay cap and the prospect that it would be reinstated contributed to the SES "brain drain" in those agencies and occupations where it was a problem.

On the basis of data from the Merit Principles Survey, the study team cannot say whether Government executives' salaries are comparable to their private sector counterparts. However, **the vast majority of Federal senior executives (79%) believe that they are being paid less.** Only three percent of those questioned thought that they were being paid more. Pay compression, being paid the same as one's colleagues despite differences in levels of responsibilities (and in some cases being paid the same as one's subordinates), has been a recurring problem in the SES. In recent years the cap has been raised substantially. Nonetheless, 94 percent of the senior executives the Board surveyed said they believed that pay compression will probably recur in the next few years.²¹

¹⁹Commission on Executive, Legislative and Judicial Salaries, Report of the Commission on Executive, Legislative and Judicial Salaries, December 1980.

²⁰Under Public Law 97-377, section 129 (December 21, 1982), the payable salary rates for SES members who had been affected by the executive pay freeze were allowed to rise to the current scheduled rate. A pay rate is scheduled to take place in January 1984 which would raise executive salaries an average of four percent. The new proposed pay rates will be:

ES 1 = \$58,938	ES 4 = \$66,000
ES 2 = \$61,292	ES 5 = \$67,800
ES 3 = \$63,646	ES 6 = \$69,600

²¹Our findings are consistent with the Report of the Commission on Executive, Legislative and Judicial Salaries, p. 4. According to that report, private sector executive pay has gone up by 25 percent, since 1977, while Federal executive pay has increased by 5.5 percent.

Desirability of Working in the SES

The architects of civil service reform anticipated that membership in the SES would be eagerly sought after by upwardly mobile Federal managers. Executives who successfully made it into the SES were to be the best and the brightest--the elite corps of the Federal service. It was also expected that there would be a great deal of competition for these positions. However, according to respondents in both the Board's 1981 SES Survey and 1983 Merit Principles Survey, this expectation has not become a reality.

The Board's 1983 data indicate that there is no consensus among executives about the desirability of remaining in the Senior Executive Service. In the Board's survey, executives were asked if they would consider moving to a GS 16-18 vacancy in their agency if it involved approximately the same kind of work. Thirty-five percent said that they would. Thirty-eight percent said that they would not consider moving, and the remainder were not sure.²²

Equally as important as the retention of competent senior executives is the need for the SES to be attractive to qualified candidates for future executive positions.

The Board's 1983 survey asked merit pay employees in grades GS 13-15 if they would join the SES if they were given the opportunity. Forty-five percent indicated that they would accept an SES position. This compares with 31 percent of the respondents in our 1981 SES study.²³ Approximately 40 percent of the executives in both 1981 and 1983 indicated that they would probably join the Senior Executive Service if given the opportunity. See Chart 5-3.

c. Concluding Observations on SES Recruitment and Retention

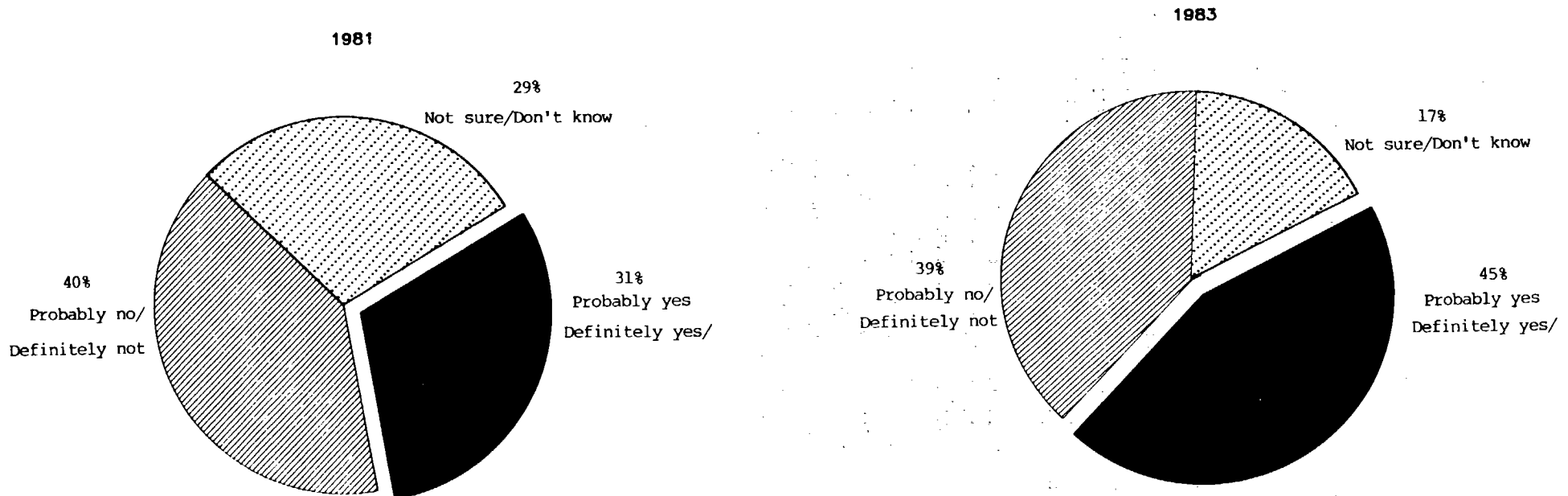
Even if the fear of the loss of executives (via a "brain drain") is greater than the reality, there is still reason for cautious concern. Executives are staying in Government primarily because they like the work they do. In many program areas, the Federal Government offers opportunities for basic research, a broader scope of operations, and a chance to influence national events on a scale that has few counterparts in the private sector.

²²In our 1981 study, we asked senior executives a different question, that is: Would they leave their present position for a GS-15 job involving the same kind of work? At that time, the majority indicated that they would accept such a position. Several other studies corroborated this finding. See HHS, Study of HHS Executive Service Members, March 1983 and The Senior Executive Association, Survey of SES Members, September 1982. It should be noted, however, that the Board's 1983 question is substantially different.

²³MSPB, A Report on the Senior Executive Service, September 1981, p. 22.

Chart 5-3

Do Mid-Level Employees Want to Join the Senior Executive Service?



120

The question asked in 1981 was: Are the incentives of the SES sufficiently attractive to make you want to join the SES, assuming you were offered a job you would like to have?

Respondents: Representative of senior executives in the Federal work force.

Total sample for the 1981 survey was 1,519.

The question asked in 1983 was: Would you join the Senior Executive Service if you had the opportunity?

Respondents: Representative of GM 13-15 employees in the Federal work force.

Number of respondents: 1,120.

Percentages do not add to 100% due to rounding.

However, the Board's data indicate that the high calibre personnel needed to carry out these heavy responsibilities are also the individuals with the greatest potential for job opportunities in the private sector.

Executives are concerned about their compensation system, including proposed changes in the retirement system. There have been several significant raises in the cap on executive pay in recent years. At the time of the Merit Principles Survey, the ceiling on executive pay had risen to \$67,200. Despite the substantive raises which had preceded the Board's survey, the majority of executives still do not believe that the SES has been successful in meeting its basic goal of attracting and retaining competent senior executives. They also believe that it is likely that pay compression will recur within the next two years.

If executives feel that their financial benefits are going to be reduced, the intrinsic value of the job itself might not be a sufficient reason to stay in Government. This may be especially true with respect to the younger executive who is less vested in the system and has greater opportunity to build a career in the private sector.

A less visible but still quite real concern is the impact of these changes on the Government's ability to recruit high caliber executives from outside Government. An indication of this, and a concern in its own right is the relative antipathy of midlevel employees toward future membership in the SES. If the Senior Executive Service is to be successful, it must not only be able to retain competent executives--it must also be able to attract highly qualified candidates from all sources. Unfortunately, the data indicate that the image of the Senior Executive Service may be slightly tarnished and in need of a good buffing. This will require that attention be paid, by OPM among others, to the concerns expressed in this section.

CHAPTER 6

OPM ACTION AND INACTION ON PREVIOUS BOARD RECOMMENDATIONS

A. INTRODUCTION

This chapter is the first part of a two part follow-up look at actions OPM has taken or plans to take in response to recommendations contained in the Board's two previous reports on OPM's significant actions. In October 1983, the Board addressed a series of interrogatories to the Director of OPM asking him to state for the record what action OPM had taken or planned to take with respect to the Board's earlier recommendations. This chapter examines OPM's responses to those interrogatories. The second part of the follow-up process is planned for the Board's upcoming report on significant actions during 1983. That report will look at how OPM actions and inactions in the areas identified are affecting the merit system.

In exercising its broad discretion under the law to determine which actions of OPM are "significant" to the merit system in any given year, MSPB solicits input on the critical issues to be studied from a wide range of organizations and individuals with a specific interest in the Federal personnel system. The Board's first report, published in June 1981, covered the significant actions of OPM during Calendar Year 1980.¹ The second annual report, published in December 1982, covered OPM significant actions during Calendar Year 1981.²

Both previous reports drew upon opinions and reported experiences from Federal employees including senior personnel officials (GS-13 and above). The first report also included selected data from a questionnaire survey of a representative cross section of senior personnel officials in all major Federal departments and agencies.

This chapter presents two sets of OPM responses on follow-up actions. In gathering data for the report on the significant actions of OPM for 1981, the Board asked OPM to describe the actions it had taken or planned to take on the recommendations in the Board's Report on OPM Significant Actions During 1980. OPM responded to that request in April 1982. In October 1983, the Board sent OPM a request for an update on actions taken on the recommendations in both the previous reports.

¹U.S. Merit Systems Protection Board, Report on OPM Significant Actions During 1980, June 1981.

²U.S. Merit Systems Protection Board, Report on OPM Significant Actions During 1981, December 1982.

Neither of OPM's written responses indicated disagreement with the Board's findings. In some cases, OPM indicated action was unnecessary because appropriate action had already been taken or was planned. In other cases, OPM's responses were of an interim nature and lacked assessment of the results of its actions. In still other cases, the link between the OPM actions cited and the issues raised in the Board's report was not clear. This chapter identifies areas where the study team believes problems identified in previous Board reports may still exist.

There were eight major issues or potential problems relative to the merit system for which corrective actions were recommended in the 1980 report:

1. Protection of the Merit System: What has OPM done to promote merit principles and prevent prohibited personnel practices?
2. Delegation of Authority: What has OPM done to assist agencies to cope with delegated examining authority?
3. Federal Equal Opportunity Recruitment Program: What has OPM done to improve the recruitment of minorities and women and the "underrepresentation index"³ reporting system?
4. Political Transition: What has OPM done to prevent political abuse of the merit system during transition periods?
5. Performance Appraisal: What data does OPM have regarding its revised performance appraisal strategy and its effect on productivity?
6. Multiple Policy Authorities: What is the status of the interagency task force to develop a system for reporting centralized, integrated decisions affecting personnel management systems?
7. Employee Protection: What has OPM done to quantify costs incurred by agencies incident to the protection of employee rights?
8. Labor Management Relations: What has OPM done to monitor trends in negotiations in order to identify conflicts with merit principles?

³"Underrepresentation" is a term introduced into Federal personnel law by the Civil Service Reform Act of 1978 (CSRA). As a condition, it exists whenever the percentage of members of certain minority groups or women, in given categories of Federal employment, is less than the percentage ("Underrepresentation index") of those same groups within the national or local labor force. It is determined by dividing an agency's employment percentage of a particular minority or sex group in a given employment category by the percentage of that same group in the local or national labor force and multiplying by 100.

Two major issues were identified in the 1981 report for which corrective actions were recommended:

1. Morale: What has been OPM's impact on the morale of the Federal work force?
2. Pay: How successful has OPM been in achieving its goal of establishing a link between pay and performance through establishment of a merit pay system and assuring equitable compensation for senior executives?

This chapter reviews each recommendation of the two previous reports in the context of the issues involved, and reviews OPM's written response to specific Board interrogatories concerning their action or inaction on the recommendation.⁴ The critical questions the study team examined and the major findings based on these critical questions are identified below.

Critical Questions

1. What action or (lack of action) does OPM indicate was taken or planned in response to each of the Board's recommendations?
2. Do OPM's responses adequately address each recommendation?
3. What has been the impact of OPM's action (or lack of action) relative to each issue? (In most cases, this latter question will be answered in the Board's 1983 Report of OPM's Significant Actions.)

Major Findings

In assessing the critical questions, the study team looked at the eight major issues contained in the 1980 report and the two major issues contained in the 1981 report relative to OPM's actions or inaction and found that they fall into four categories:

Category 1. OPM has not yet completed its intended action relative to the following issues:

Delegation of Authority
Employee Protections

⁴Letter from Herbert E. Ellingwood, Chairman, U.S. Merit Systems Protection Board, to Dr. Donald J. Devine, Director, U.S. Office of Personnel Management, October 4, 1983.

Category 2. OPM took action and the study team regards the issue as basically resolved relative to the following issues:

- Labor-Management Relations
- Reform Systems and Political Transition
- Multiple Policy Authorities

Category 3. OPM took action, but the study team believes the action will not resolve the following issue:

- Federal Equal Opportunity Recruitment Program

Category 4. OPM took action relative to the following issues, but more time is needed before the full results of that action can be accurately assessed and their continued oversight is warranted.

- Protecting the Merit System
- Performance Appraisal
- Morale
- Pay

Each of these ten issues is examined below in chronological order, under the appropriate category: MSPB Recommendation (June 1981), OPM Response (April 1982), MSPB Follow-up (October 1983), and OPM Response (November 1983).

B. FINDINGS

Category 1. OPM has not yet completed its intended action.

1. ISSUE: DELEGATION OF AUTHORITY

The Board's study team found that the multiple pressures on agencies to implement delegated examining authority will place great stress on the merit system in years to come. The pressures include the structure of the Uniform Guidelines: inadequate resources in the agencies and OPM to meet those structures, and unabated attacks on selection procedures by those adversely affected.

MSPB Recommendation (June 1981)

Addressing this issue, the Board recommended that OPM should devote special attention to the problems inherent in delegating examining authority to agencies which are ill-prepared to deal with legal consequences following from the Uniform Guidelines, focusing in particular on the agency costs and resources required to satisfy those Guidelines.

OPM Response (April 1982)

OPM replied that:

[T]he matter of Uniform Guidelines is under review.

MSPB Follow-up (October 1983)

What is the status of your review of the Uniform Guidelines and what changes does OPM anticipate in this area?

OPM Response (November 1983)

Our review of the Uniform Guidelines is continuing. Because this is a complicated and sensitive area, we have not rushed to judgment about the Guidelines, but are instead systematically reviewing all possibilities. We cannot say at this time what, if any, changes we anticipate.

Finding

OPM's cautious approach to this problem is appreciated. However, almost two and one-half years have passed since the Board's initial recommendation. The basic problem has been exacerbated by the abolishment of the Professional and Administrative Career Examination (PACE). Under the interim Schedule B authority which replaced the PACE, agencies have even greater responsibility for developing examining procedures. OPM should consider the costs of further study of this issue and make completion of this study a high priority item.

2. ISSUE: EMPLOYEE PROTECTIONS

MSPB recognizes the moral as well as the statutory obligations to protect Federal employees' rights. However, agency officials indicated to the Board that greater use of systems designed to protect employees' rights have resulted in greatly increased costs to agencies which cannot be budgeted. Little attention has been given to quantifying or reducing such costs.

MSPB Recommendation (June 1981)

OPM should initiate a project to develop uniform measures of agency costs in this area, and recommend to Congress and the President any legislative changes necessary to achieve these objectives.

OPM Response (April 1982)

A preliminary study which will assess the issues outlined in the recommendation is currently underway.

MSPB Follow-up (October 1983)

What is the status of the study and what actions have you taken as a result of the study?

OPM Response (November 1983)

Due to the complex nature of the issues involved, this study has not been completed. Investigation of these issues is still in progress.

Finding

Based upon OPM's reply, the study team cannot assess what, if any, results have flowed from OPM's investigation. This is another area in which OPM should give priority to completion of its work and take appropriate action to reduce costs where possible.⁵

Category 2. OPM took action—issue is basically resolved.

3. ISSUE: LABOR-MANAGEMENT RELATIONS

The Board's study found that many agency personnel directors felt there was a potential for a conflict between merit principles and union proposals to limit competition to bargaining unit members or arbitrary use of seniority as a factor in personnel decisions.

MSPB Recommendation (June 1981)

Addressing this perceived threat, the study team recommended that OPM should closely monitor trends in negotiations to identify potential conflicts with merit principles, and develop overall Executive Branch strategies for addressing any that arise.

OPM Response (April 1982)

OPM replied that it:

Already reviews and evaluates existing collective bargaining agreements for, among other things, potential conflict with merit principles. OPM will continue to do so and to provide negotiation guidance to agencies, as appropriate.

⁵During the 29-month period that the OPM study has been in progress, the Board has tried to introduce cost reduction in this area through a pilot expedited appeals program. This voluntary alternative to the Board's formal process is designed to adjudicate routine, nonprecedential appeals in a cost effective, expeditious manner. The highlights of the program are the reliance on a single, joint pleading as opposed to formal discovery, greater authority for the presiding official to engage in settlement negotiations, and consequent reduction of Board staff resources in the regional appeals process. Compressed time limits at the regional level (a reduction of over seven months in last normal reporting year to less than two months in processing petitions for review) will further enhance the quality of the advocacy and review skills of all parties and thus improve the overall effectiveness and efficiency of the Board's adjudicatory system.

MSPB Follow-up (October 1983)

What is the impact on the merit system of withdrawing your proposed changes (in the area of management rights)?⁶

OPM Response (November 1983)

[T]he proposal for the FPM letter has not been withdrawn. However, if it should be withdrawn eventually, we do not believe any measurable impact on merit principles (system) will result because, The proposed letter contains no new policy.

Finding

OPM's reply appears to be appropriate to the Board's recommendations and interrogatory. The Board's 1980 report reviewed the possibility of potential conflicts in later negotiations with merit principles from a purely speculative approach. Since CSRA was the first statutory basis for collective bargaining in the Federal sector, the Board addressed the concerns of senior personnel officials in the Federal Government at that time (1981).

4. ISSUE: REFORM SYSTEMS AND POLITICAL TRANSITION

It is technically legal for a noncareer appointee [Schedule C position] to be given career status. OPM does not maintain data that monitors such movement and it was not possible for the MSPB study team to compare such movement during political transition periods with politically neutral periods.

MSPB Recommendation (June 1981)

OPM should improve its role in preventing political abuse of the merit system by instituting tighter oversight controls during the transition periods. In general, however, OPM deserves credit for its positive support of the merit system during the last transition.

OPM Response (April 1982)

OPM is conducting a study of the effects of the recent change in administration on SES members. That study will assess whether the new provisions for reassigning members have succeeded in ensuring consistency with merit principles in a

⁶On March 30, 1983, OPM published a notice in the Federal Register to clarify its policy on management rights, consultation, and scope of bargaining in agency negotiations with Federal employee unions (48 F.R. 13390). That policy was to have been issued in the form of an FPM letter. This notice of intent to publish an FPM letter was republished in final form on July 14, 1983, (48 F.R. 32276). At the time of this report, no FPM letter has been issued.

transition, while meeting the goal of providing political appointees with the ability to adjust staff assignments to meet changing policies and priorities.

MSPB Follow-up (October 1983)

What were the results of the study and what new controls, if any, were proposed as a result of that study?

OPM Response (November 1983)

The study found no evidence of significant abuse. No new controls were, therefore, proposed.

Finding

As discussed in Chapter 4 of this report and as determined by a recent GAO review on the same issue,⁷ there is little documented evidence of widespread abuse. For this reason, the study team feels that OPM's response is appropriate.

5. ISSUE: MULTIPLE POLICY AUTHORITIES

Those responsible for making personnel management decisions must consider decisions and policy guidance from OPM, MSPB, EEOC, FLRA, the Comptroller General, and the Federal Courts. The Board's study team found that there was no up-to-the-minute central reporting system to integrate these agencies' documents for the operating level user.

MSPB Recommendation (June 1981)

OPM should take the lead in forming an interagency task force to promptly develop a system for the centralized, integrated reporting of decisions and issuances of the central personnel authorities and other bodies which affect personnel management decisions.

OPM Response (April 1982)

[T]his recommendation has merit (OPM staff has been directed) to recommend strategies for its implementation.

MSPB Follow-up (October 1983)

What is the status of that task force and the integrated reporting system they were to develop?

⁷Unpublished letter from Clifford I. Gould, Director, Federal Personnel and Compensation Division, U.S. General Accounting Office, to the Honorable Patricia Schroeder, Chairwoman, Subcommittee on Civil Service, Committee on Post Office and Civil Service, U.S. House of Representative, March 23, 1982.

OPM Response (November 1983)

OPM informed us that a commercial publishing house provides this service known as The Federal Labor Relations Reporter (FLRR), which is also available as an on-line data base for access by computer. Therefore, OPM said:

[T]he need for an interagency task force for this purpose was effectively obviated by a development in the private sector.

This service, supplemented by subscription microfiche and indexing services for the FPM itself, appears to have fully satisfied the need intended to be addressed by this recommendation. No further action is indicated.

Finding

One year after implementation of CSRA, this appeared to be a major problem. There is no up-to-the-minute central reporting system on decisions and policy guidance from OPM, MSPB, EEOC, FLRA, the CG, and the Federal Courts.

The FLRR provides coverage for some of these. In general, agencies must currently subscribe to MSPB bound volumes of its published decisions (they are currently about one and one-half years behind); the Merit Systems Reporter published by the FLRR; Cottonwood for FPM issuances; West Publishing for Court decisions; the National Technical Information Services for microfiche of Board decisions; several other services that cover EEOC decisions; and LEXIS for a computerized full text search of Board decisions. Except for LEXIS, none of the services subscribed to provide services to agencies that can be categorized as on-line data base for access by computer.

The Board, to meet its needs for a current legal research and reporting service for its decisions and for Federal Court decisions, is working through the Government Printing Office to obtain, through contract from the private sector, such a reporting service. Once this service is obtained, it will apply only to Board and Federal Court decisions. To the best of our knowledge, there is no centralized, integrated reporting of decisions and issuances of the centralized personnel authorities and other bodies (MSPB, OPM, FLRA, CG, EEOC, and the Courts) which affect personnel management decisions.

Category 3. OPM took action--MSPB believes action will not resolve the issue.

6. ISSUE: FEDERAL EQUAL OPPORTUNITY RECRUITMENT PROGRAM (FEORP)

The Board's study team found that most agency personnel directors and working level professionals felt that the Federal Equal Opportunity Recruitment Program had not contributed significantly to increasing the number of qualified women and minority applicants. The underrepresentation index (see note 3 of this chapter) was widely thought to be unrealistic; there was no comprehensive, long-range plan for recruiting minorities in high demand occupations to compete for occupations in the Federal service.

MSPB Recommendations (June 1981)

OPM should study and recommend to the Congress legislation which would amend the law to provide more realistic measures of EEO performance by the Federal managers than the current underrepresentation index. At a minimum, such a measure should take into account demographic variables such as the relative ages, geographic distribution, and educational experiences of the relevant groups.

OPM should take the lead in developing long-range strategies by the Federal Government as a national employer to identify the future employment needs of the Government and the availability of qualified women and minorities to fill those needs. Where it is apparent that there will be shortfalls in the supply of qualified women and minorities, programs should be developed which will encourage the timely expansion of the supplies of such candidates.

OPM Response (April 1982)

OPM has the underrepresentation index under study and will be assessing the need for any changes. Further, OPM has coordinated with the EEOC and together we have decided to make some changes in reporting. Currently, we are in the process of revising regulations We have programs which can help increase the availability of qualified women and minorities.

MSPB Follow-up (October 1983)

What changes were proposed and what changes in reporting were made in the regulation? (Please provide copies of references.)

What were the results of the minority recruiting programs you cite during 1982?

OPM Response (November 1983)

Essentially, [for underrepresentation index] agencies are no longer required to compare the representation of specific target group members in their work force with the higher of the national or local civilian labor force percentage. Instead, agencies may use either, as appropriate OPM is in the process of issuing final regulations and FPM guidance to reflect the proposed revision. The proposed revision does not require a change in reporting requirements.

OPM completed its regulatory review cycle of FEORP programs; provided direct assistance to agencies with opportunities for actual recruitment; agencies were given new special appointing authority, i.e., Schedule B, which can be joined with FEORP to increase representation of minorities and women.

Finding

The change OPM made to allow agencies to use either the national or local labor force percentages to calculate their "underrepresentation index" does not fully address the substance of the problem identified in the Board's report. There are some occupations for which the Government finds it difficult to recruit regardless of sex or race considerations. The index is a raw population figure. It does not reflect the availability of minorities identified as having the specific training or skills needed to perform in the job for which the agency may be recruiting (e.g., computer programmer, engineer, etc.). This major problem still exists, and thus still is a detriment to the credibility of the underrepresentation index and any recruitment goals which are based upon it.

Category 4: OPM took action--more time is needed before the full results of that action are known and thus continuing oversight is warranted.

7. ISSUE: PROTECTING THE MERIT SYSTEM

Results of survey research and interviews by the study team indicated that there was a perceived decline in OPM's role as a firm and effective monitor of the adherence of agencies to the Merit Principles in their personnel management activities.

MSPB Recommendation (June 1981)

OPM should strengthen its agency compliance and evaluation activities and more directly monitor merit questions within those activities.

OPM Response (April 1982)

OPM responded that it had:

Increased the number of its planned on-site evaluations in FY 1982, to 233 compared with 164 for FY 1981; increased staff years and funding for its compliance and evaluation function by 10.5 percent and .7 million dollars, respectively from FY 1981; and officially notified the heads of departments and agencies of increased OPM emphasis on its compliance and evaluation function for FY 1982.

MSPB Follow-up (October 1983)

Did you meet your goal of 233 on-site evaluations? What is your schedule for FY 1983?

How does resource allocation for 1982 compare with 1983 for compliance and evaluation functions?

What is your assessment of the results of your actions?

OPM Response (November 1983)

OPM replied that 97 percent of its stated goal for FY 1982 on-site evaluation visits had been met, and its on-site evaluations were further increased 64 percent in FY 1983; its monetary resource allocation to compliance functions had increased one percent in FY 1983 over FY 1982; OPM Operations Letters 273-943 of August 25, 1981, and 273-961 of August 5, 1982, set the tone for OPM's increased emphasis on evaluations programs for FY 1982 and FY 1983, respectively. Copies of these letters were provided to MSPB along with a list of other Operations Letters that provide procedural and substantive advice to OPM regions which in turn resulted in guidance to agencies. In addition, another list of OPM Operations Letters, publications, and activities which supported its compliance and evaluation function was included. OPM concluded it met its oversight responsibilities for compliance and evaluations, particularly for position classification and position management for FY 1982.

Finding

Although OPM stated that it had met its increased evaluation program goals and its oversight responsibilities, the study team does not have hard data available to judge whether this action increased protection of the merit system. Therefore, it is difficult to fully assess the impact of OPM's action on the merit system. At this point in time, the result of OPM's increased compliance presence may only be a matter of comparative interest since OPM has within the past few months dramatically restructured its evaluation program shifting from on-site case studies to review of computer-based statistical profiles.⁸ The study team will examine the effect the new system may have on the merit system in the Board's upcoming report on OPM actions during 1983.

8. ISSUE: PERFORMANCE APPRAISAL

At the time of the Board's study (1981), agencies had a statutory deadline to implement a new appraisal system by October 1, 1981. Based upon results of a questionnaire used by the Board's study team, nearly one-half (49%) of agency personnel directors indicated that the new system would have no effect and would actually impede organizational productivity in three years. However, based upon the results of case studies and organizational assessments conducted by OPM, OPM concluded:

It will not be possible to assess the effect of the new performance appraisal system on improving productivity until at least the third year Observable changes in productivity may still require a much longer time frame to occur.

MSPB Recommendation (June 1981)

OPM should, prior to the October 1981 deadline for implementation, thoroughly review present plans to evaluate the results of performance

⁸OPM Operations Letter 273-976, dated October 20, 1983.

appraisal to ensure that there will be an adequate system in place for evaluating the performance appraisal--productivity linkage, and for making cost/benefit assessments of the performance appraisal process.

OPM Response (April 1982)

OPM has prepared a performance appraisal evaluation strategy which has been the focus of its performance appraisal evaluation efforts for the past year. This strategy includes an array of evaluation questions about performance appraisal (including, 'Is agency performance/productivity improving?') along with a detailed description of the different evaluation methodologies which will be used to collect information. Further, after the MSPB report was issued, we conducted a series of meetings to review plans for evaluating new performance appraisal information in order to ensure that strategies for obtaining performance appraisal evaluation information exist. Lastly, we provide technical assistance on performance appraisal evaluation to agencies, on request.

MSPB Follow-up (October 1983)

What data do you have regarding the effect on productivity and the introduction of your revised performance appraisal strategy?

OPM Response (November 1983)

The revised performance appraisal strategy resulted in completely revised requirements for performance appraisal systems (5 CFR 430). Since these requirements have only recently been promulgated, we do not have hard data regarding their effect on productivity

Finding

At this point in time, OPM has fundamentally revised its performance appraisal plan, but its implementation is being held up by Court order.⁹ Until the plan is tested, an assessment of its effectiveness cannot be made. The

⁹The first set of proposed regulations were issued in the Federal Register on March 30, 1983. These were subsequently withdrawn by OPM in late May 1983, and a second set of proposed revisions was issued in the Federal Register on July 14, 1983. The July 1983 proposals were discussed at the roundtable. These proposed regulations were further revised and published as "final rules" in the Federal Register on October 25, 1983. Congress and the courts have recently acted to block implementation of all three versions of these regulations. See note 3 of Chapter 1 for a full discussion.

study team will be examining OPM's actions to implement a performance management system in our 1983 report.

9. ISSUE: MORALE

The Board's report on OPM's significant actions during 1981, found that almost all of the many directors of personnel, senior executives, and leaders of employee organizations that were contacted thought that the morale of Federal employees had declined over the last several Presidential administrations and that the trend was continuing. Their concern was that the conditions affecting the morale of the civil service, including its public image, were driving out many of the best employees and turning away needed excellence--persons with exceptional skills and vital talents.

Relative to this situation, the Board made two recommendations to OPM. Listed below are the recommendations and, in response to our request,¹⁰ OPM's assessment of actions it has taken or plans to take relative to the recommendations.

MSPB Recommendations (December 1982)

OPM should be a more forceful public advocate on behalf of the civil service with respect to those incidents of employment which it can support in a positive way.

OPM should communicate its long range programs and goals for changes in the terms and conditions of Federal employment more broadly and effectively.

OPM Response (November 1983)

In response to the Board's first recommendation relative to advocacy on behalf of the civil service, OPM assessed itself as an effective and forceful public advocate on behalf of the civil service from both the short-term and long-term perspectives. OPM cited several short-term morale measures it had taken or planned to take. For example, OPM stated that:

In both 1981 and 1982 President Reagan met with and presented lapel pins and certificates to the Senior Executive Service career employees who had received the award of Distinguished Executive.

Other examples included expanding placement efforts for displaced employees and publishing proposed regulations expanding opportunities for employees to enroll in the Federal Health Benefits program when they lose other health insurance through no fault of their own.

In OPM's view, long-term measures supportive of Federal employees are those it believes will enable Federal workers to regain the respect of their fellow citizens. Accordingly, OPM sees its efforts to restructure performance management, reduction-in-force procedures, and pay and benefits programs as very positive long-term morale building efforts which ensure that performance of Federal employees will measure up to that of their private sector counterparts, and that their pay and benefits will be truly comparable with what workers in other sectors of the economy receive.

¹⁰See note 4, this chapter.

Relative to the second recommendation concerning better communication of its long range programs and goals, OPM provided the following assessment:

OPM has consistently and effectively communicated its plans and objectives on major personnel issues. In regard to performance management, reduction in force, pay, and benefits, we perceive a widespread understanding of the reforms and improvements we are trying to make, both among Federal employees and the general public. While Federal employees may agree or disagree with the changes being implemented, ambiguity in OPM's communications of long range goals has not been at issue.

Findings:

The information and informed opinions, upon which MSPB based its original recommendations in this area, were gathered more than 18 months ago. Since that time, OPM has issued numerous public statements as to its objectives, guidance to Federal agencies on the Administration's civil service goals, and several major proposed changes in civil service regulations. Although OPM has had mixed results in implementing these changes, the thrust of the changes combined with recent and relevant OPM statements and guidance, should serve to dispel the uncertainties discussed in the earlier report. However, the study team does not believe that OPM's actions since the earlier report would change the opinion of those commentators who called for OPM to be a more forceful advocate on behalf of the civil service. As stated in our report on OPM's significant actions during 1981, ". . . some of the main factors contributing to the decline in Federal employee morale are related to either events or conditions that precede the current leadership of OPM or involve incidents of broader national political policy." The study team believes that this is still an accurate statement, and that it would be unrealistic to expect OPM, by itself, to reverse the reported decline in Federal employee morale. However, as also noted in the Board's earlier report ". . . even though OPM's significant actions are not the only forces affecting Federal employee morale, that does not lessen the need for OPM to be part of the solution." The positive short-term actions cited in OPM's response may have improved the morale of the Federal employees who were directly affected by them, but the large majority of employees were/are not affected by those actions.

The study team does not know if Federal employees are likely to be convinced by OPM's reasoning that some drawbacks in Federal pay and benefits will lead to an improved public image and, hence, improved Federal employee morale. The indications are that there are still some problems with morale. According to the Board's Merit Principles Survey¹¹ conducted throughout the Government during August 1983, only 16 percent of employees feel the image of the Federal employee is a reason for staying in Government. Over twice as many, 36 percent, see the public perception of Federal employees as a reason to leave. As reported in the Board's 1981 OPM report, the poor image of Federal employees was identified as a major factor in poor employee morale.

¹¹See Appendix A.

This does not refute or affirm the need or justification for the changes OPM officials say are needed to enable Federal employees to regain the respect of their fellow citizens. Indeed, a short-term drop in morale might simply be the price that has to be paid in order to make what OPM officials believe are needed changes in current Federal personnel management systems or practices. However, as OPM seeks to make changes in sensitive areas such as pay and benefits or performance management, it should strive to find ways to minimize the adverse impact of these changes on employee morale.

10. ISSUE: PAY

The review of OPM's significant actions during 1981 took a critical look at the Federal Government's new merit pay system for supervisors and managers at the GS-13 through GS-15 level. The Board found that in its first year of full operation, a number of serious problems and concerns arose that were largely related to the funding of the merit pay system. These problems raised serious questions about whether the objectives of the system could be achieved. The 1981 report also looked at the Government's ability to recruit and retain executive talent. There was little evidence of a wide scale "brain drain" across the whole of the Senior Executive Service. Although some agencies were having serious problems in recruiting and keeping senior executives, particularly in scientific and technical occupations. Further, there were also indications at that time that the general quality of the Government's senior executive corps could diminish in the future because it is becoming less and less attractive both to persons outside the Government and to the middle managers within the civil service.

To address the concerns in this area, the report made two major recommendations to OPM. These recommendations are outlined below along with OPM's assessment of the actions it has taken or plans to take relative to them.

MSPB Recommendations (December 1982)

Both OPM and the Congress should skeptically and critically reexamine whether the objective of the merit pay program--establishing a link between pay and performance to improve productivity--can be met if there are only marginal pay differentials available to reward better performers

OPM should take a strong leadership position in advocating changes in the system by which compensation is set for senior executives. These changes should allow executive pay to be set more in accord with the demands of the marketplace, and should address the severity of the recruitment and retention problem in scientific and technical occupations in particular

OPM Response (November 1983)

Relative to our observations and recommendations on the merit pay system, OPM provided the following response:

During the past year, both OPM and the Congress have reexamined the merit pay program in light of the three years since it was initially implemented in eight agencies As a result, OPM has just issued new regulations governing the Merit Pay System, and portions of the General

Schedule System as well, as part of a comprehensive Performance Management System. The new regulations are intended to enhance compatibility between the Merit Pay and General Schedule pay systems and reduce substantially the perceived inequities now associated with merit pay. Significant improvements promulgated in the new regulations include requirements for a minimum differential in compensation between "Outstanding" and "Fully Successful" employees and for performance awards to become an integral (and mandatory) part of the pay-for-performance systems

.

Concerning documentation of concerns regarding the effects of inadequate compensation on the general quality of the Senior Executive Service, OPM provided the following feedback:

We are very much aware of and concerned about providing adequate compensation for the Government's senior employees. Since this Administration entered office, there have been two substantial increases in executive pay, and the "pay ceiling" for General Schedule employees is now 27 percent higher than under the previous Administration. In December 1982, for the first time since the Senior Executive Service was established in July 1979, all members of the SES began receiving their full scheduled pay rates

Recruitment and retention of senior executives in scientific and technical occupations has been of particular concern While the general increase in SES pay rates shows progress has been made, we will continue to work for improvements in this important area.

Findings:

OPM has made an effort to address the issues raised by the Board. OPM's proposed performance management regulations would guarantee merit pay employees at least parity with General Schedule employees in terms of annual raises. They also promote the use of cash awards in tandem with merit pay distributions. OPM is also correct that there have been two substantial increases in the pay ceiling on executive pay in recent years. These problems will not be easily or quickly resolved. Congress and the courts have suspended OPM's regulations, and it is uncertain when, or if the proposed changes to the merit pay program can be made at any time in the foreseeable future. The results of the Merit Principles Survey also show that the overwhelming majority of senior executives believe that pay compression will recur in the next few years. Thus, these are areas where OPM will need to continue to work toward solution. However, the fact that there is general agreement about the nature of the problems is in and of itself encouraging.

C. CONCLUDING OBSERVATIONS:

In its first two reports on the significant actions of the Office of Personnel Management during 1980 and 1981, the Board cast a broad net over the waters of the Federal civil service system and discovered a wide variety of issues relevant to the actions (or lack of action) of the Office of Personnel Management. The Board selected from out of the many possibilities for review those which, in its judgment, seemed to have the greatest potential for conflict with the merit system principles or the prohibited personnel practices outlined in the Civil Service Reform Act (CSRA).

As illustrated by the discussion in this chapter of past issues, recommendations, and OPM responses, the ultimate results or impact of the OPM significant actions identified in our first two reports varies based on the particular issue in question. In those cases where the issues were relatively broad or difficult to define (e.g., morale of the Federal work force) the impact of OPM's actions is open to a good deal of debate and potential disagreement. On the other end of the spectrum, in those cases where the issues were relatively specific or well defined (e.g., regulatory change relative to the Federal Equal Opportunity Recruitment Program) a more unequivocal positive or negative assessment of OPM's subsequent actions or inactions was possible. The Board will continue to monitor OPM action on its recommendations in future reports.

APPENDIX A

SURVEY METHODOLOGY

The following is a discussion of the methodology used to collect and analyze the survey data in this report.

Development of the Questionnaire. A 16-page questionnaire was developed for the MSPB Merit Principles Survey. The questionnaire contained 70 questions in six different sections: (1) "General Employment Questions" - a section pertaining to incentives to performing, respondents' likelihood of leaving Government, and general personnel practices in the respondents' work group; (2) "Protections for Employees who Report Fraud and Waste in Government Operations" - a section answered only by respondents who had personally observed or obtained direct evidence of illegal or wasteful activities; (3) "Merit Pay" - a section on the effectiveness of merit pay as an incentive system; (4) "For Supervisors Only" - a section on supervisors' experiences dealing with poor performers; (5) "For Senior Executives" - a section examining senior executives' experiences with the SES bonus system, the incidence of arbitrary personnel actions against SES members, and their overall evaluation of the SES during its first five years; and (6) "Personal and Job Information" - a demographics section for all respondents.

The questionnaire was pretested seven times with employees representative of those who received the survey. Pretests were held at MSPB, IRS, Department of the Treasury, and the Department of Agriculture. Two of the seven pretests were conducted in regional offices.

Selection and Design of the Sample

The employee sample was generated using a disproportionately stratified random sample of 7,861 permanent civilian employees in the Executive Branch of the Federal Government who were listed in the April 1982 Office of Personnel Management (OPM) Central Personnel Data File (CPDF), with the exception of those who were:

1. located at a work site outside the continental United States, Alaska, or Hawaii;
2. employed by the FBI, intelligence agencies such as CIA and NSA, or by quasi-independent agencies such as the Post Office, TVA, or Federal Reserve, since such agencies are outside the Board's mandate.

The sample was stratified on the basis of pay category, pay grade, and agency. Respondents were grouped into seven substrata: SES, GS 13-15, GS 9-12, GS 5-8, GS 1-4, Wage Supervisor/Wage Leader, and Wage Grade. Those in SES and GS 13-15 were further stratified by agency. A total of 52 substrata were established.¹

¹Readers interested in a detailed, quantitative description of the sampling plan may obtain an overview by writing to: David Chananie, Ph.D., Personnel Research Psychologist, Merit Systems Protection Board, Office of Merit Systems Review and Studies, 1120 Vermont Avenue, N.W., Room 836, Washington, D.C. 20419.

Administration of the Questionnaire. A private sector firm, Hay Associates, researched mailing addresses to insure that they were valid. A secondary sample was drawn, and if an employee's mailing address could not be found in the primary sample, the employee was replaced with one from the secondary sample. A replacement was the next available employee, from the secondary sample, with the same stratum and substratum.

The questionnaires were mailed to the selected employees in July 1983. Questionnaires were mailed to the employees' office addresses.

Accompanying each questionnaire was a cover letter explaining the purpose of the study. To increase the response rate, reminder letters were sent to the entire sample approximately two weeks after the questionnaire was mailed. Anonymity was guaranteed to all respondents.

Returns. Excluding undeliverable questionnaires (229), the return rate for the Merit Principles Survey was 65% (4,897 returns out of 7,563 delivered questionnaires). The lowest substratum return rate was 30% and the highest was 87%.

Data Processing. Hay Associates collected the responses and prepared a clean data tape that was delivered to MSPB for its analysis. The data were verified twice by the MSPB research staff. Range checks, logic checks, and skip pattern checks were used in each verification.

The data from the survey were weighted by a proportion (STRATWGT) reflecting the ratio of the population size in each of the 52 substrata to the number of respondents for the respective substratum, i.e.,

$$\text{STRATWGT} = \frac{\text{Population size of substratum}}{\text{Number of respondents in substratum}}$$

Respondents who did not identify their agency and/or grade were placed in a separate stratum (Number 53) and assigned a weight of one.

Most of the data analysis consisted of frequency distributions and two-way cross tabulations. In analyzing and presenting the data for this report, percentages and numbers were rounded in order to simplify the analysis. A random sample of questionnaires with comments were reviewed and these findings are also included in the analysis.

APPENDIX B

METHODOLOGY FOR CHAPTER 2

The information for Chapter 2 was obtained from two sources: (1) responses to interrogatories sent to the Secretaries and Administrators of twenty Cabinet-level Departments and independent agencies, and (2) comments made at an Office of Merit Systems Review and Studies (MSRS) roundtable discussion by three officials from the Office of Personnel Management (OPM) and two representatives from two Federal employee unions, the National Federation of Federal Employees (NFFE) and the National Treasury Employees Union (NTEU). These sources are described below.

1. Interrogatories

The interrogatories to the twenty Secretaries and Administrators were designed by the MSRS research team and mailed on June 29, 1983. Responses were received from thirteen personnel directors and seven assistant secretaries between July and September 1983. Chapter 2 discusses the October 25, 1983 regulations OPM promulgated on performance management (including the pay-based incentive systems) and reductions in force. Because the agency officials responded to MSRS interrogatories before October, they did not have the benefit of examining and responding to the October 25 regulations. Their responses, therefore, pertain to the March 30 and July 14 versions of these regulations.

AGENCY RESPONDENTS TO MSRS INTERROGATORIES

<u>Department or Agency</u>	<u>Individuals Responding</u>
Agriculture	Lawrence Cavallard Acting Director of Personnel
Air Force	J. Craig Cumbey Deputy Assistant Secretary of Air Force for Civilian Personnel Policy and Equal Employment Opportunity
Army	Delbert Spurlock, Jr. Assistant Secretary, Manpower Reserve Affairs
Commerce	Arlene Triplett Assistant Secretary for Administration
Defense	Jerry Calhoun Principal Deputy Assistant Secretary, Manpower Reserve Affairs and Logistics
Education	Charles Heatherly Deputy Under Secretary - Management

Energy	J. M. Schulman Director of Personnel
Environmental Protection Agency	Clarence Hardy Director of Personnel Management Division
General Services Administration	Patricia Q. Schoeni Acting Administrator
Health and Human Services	Thomas McFee Assistant Secretary for Personnel Administration
Housing and Urban Development	Judith Tardy Assistant Secretary
Interior	Richard Hite Principal Deputy Assistant Secretary, Policy, Budget and Administration
Justice	Kevin Rooney Assistant Attorney General for Administration
Labor	Raymond Donovan Secretary
National Aeronautics and Space Administration	Carl Grant Director, Personnel Program
Navy	Joseph Taussig Deputy Assistant Secretary, Civilian Personnel Policy and Equal Employment Opportunity
State	Myra H. Shiplett Associate Director of Personnel
Transportation	Robert Smith Director of Personnel
Treasury	D. S. Burckman Director of Personnel
Veterans Administration	Harry Walters Administrator

2. MSRS Roundtable

The Office of Merit Systems Review and Studies of the Merit Systems Protection Board sponsored a roundtable discussion, "OPM Significant Actions: A Union-Management Dialogue" on November 7, 1983, in Washington, D.C. Three officials from the Office of Personnel Management (OPM) and two officials from the larger Federal employee unions were the featured panelists. Representing the Office of Personnel Management were: Patrick Korten, Executive Assistant

Director for Policy and Communication; George Nesterzuck, Associate Director for Workforce Effectiveness and Development; and James Morrison, Associate Director for Compensation.

Representing the National Federation of Federal Employees (NFFE) was Catherine Waelder, General Counsel. NFFE represents 136,583¹ employees in exclusive units who hold a variety of positions in the Federal Government.

Representing the National Treasury Employees Union (NTEU) was Frank Ferris, Director of Negotiations. NTEU represents 105,343² employees in exclusive units who are principally professional employees at the Department of the Treasury.

Mark Roth, Acting General Counsel for the American Federation of Government Employees (AFGE), had agreed to serve as a panelist, but was forced to withdraw from the roundtable at the last minute because of ongoing negotiations with AFGE Local 2, Office and Professional Employees International (OPEIU). AFGE represents 685,677³ employees in the exclusive units in a variety of positions in the Federal Government.

The National Association of Government Employees (NAGE), did not accept the MSRS invitation to participate as a panelist. NAGE represents 66,554⁴ employees in exclusive bargaining units who hold a broad scale of positions as civilian employees at the Department of Defense or the Veterans Administration.

The MSRS roundtable consisted of brief formal presentations by each of the union and OPM officials. Following the formal presentations, panelists and audience engaged in a one-hour question and answer session. The audience was by invitation only and included two Assistant Secretaries for Administration, seventeen Labor-Management Relations Directors at Federal agencies, eight Personnel Directors (and two designees), one Assistant Inspector General (and two designees), nine congressional staff members, six representatives from professional associations, one representative from a private research organization, three academicians, and press representatives.

¹Office of Personnel Management (OPM). Unpublished report, Union Recognition in the Federal Government; Statistical Summary Reports Within Agencies, Listings Within Agencies, December 1983. This data was also published as FPM Bulletin 711-89, Attachment 2, December 1, 1983.

²Ibid.

³Ibid.

⁴Ibid.

STUDY DESIGN

Critical Questions

The purpose of the Chapter 2 study was to examine the effect of OPM significant actions (or inactions) on the merit system in 1982 according to respondents from Federal agencies, selected Federal employee unions, and OPM itself. In order to accommodate the needs of the union and OPM officials, the questions to these two groups were slightly different from the interrogatories addressed to the agency officials. A summary of the questions to all three groups follows.

Question to Agency Officials

What were the three most positive and three most negative OPM significant actions during 1982 and 1983 in terms of their impact on the merit system?

Questions to Officials From OPM and Selected Unions

1. What would you identify as OPM's three most significant accomplishments during 1982, and the three most significant in 1983 in terms of their impact on the merit system?
2. What will OPM have to do during 1983 to lay the groundwork for the long-range (1984-1989) OPM priorities you identify?

Questions to Officials in all Three Groups

1. Looking ahead over the next five years (1984-1989), what do you feel are the three most important steps OPM can take to improve the merit system?
2. If you could set the agenda for congressional action on public personnel issues over the next five years (1984-1989), to what three changes would you assign the highest priority with regard to their impact on the merit system?

Analysis

Responses to the above critical questions were sorted and compared to determine if there were any agreed upon "most positive" or "most negative" OPM significant actions during 1982 among the agency, union or OPM officials. There were no significant actions that respondents from all groups identified as "most positive" or "most negative". Next, each of the most often cited significant actions was evaluated in decreasing rank order for each of the three groups (agency, union, OPM). Information denoting the most frequently cited significant actions is summarized in Tables 2-1 through 2-4 of Chapter 2. These tables are:

Table 2-1. OPM Actions in 1982 Cited as Having a Positive Impact on the Merit System (p. 15).

Table 2-2. OPM Actions in 1982 Cited as Having a Negative Impact on the Merit System (p. 16).

Table 2-3. Issues Identified as Priority Actions for OPM in 1984-1989 (p. 19).

Table 2-4. Issues Identified as Priority Actions by Congress in 1984-1989 (p. 20).

Finally, all the responses to each interrogatory were sorted by issue and ranked, ordered in decreasing order of frequency of citing. The second half of Chapter 2 presents an overview of the comments of all three groups on the subjects: Recruitment and Examination, Compensation and Benefits, Performance Management, and Reduction in Force.

APPENDIX C

COMPARISON OF MSPB FINDINGS WITH OTHER STUDIES ON INCENTIVES TO PERFORM

This appendix consists of two sections. Section I is an annotated bibliography of studies on incentives to perform conducted by other organizations in the Legislative and Executives Branches with oversight responsibility for public personnel matters. A Masters' thesis is also included. Section II provides a table comparing the findings of the Merit Principles Survey of 1983 with those of other studies on incentives to perform.

SECTION I

This selected bibliography covers studies on incentives to perform in the Federal workplace published between March 1981 and October 1983 by the following organizations: the General Accounting Office, the Department of Health and Human Services, the Office of Personnel Management, and the International Personnel Management Association.

Engel, James. Merit Pay as a Motivator in the Federal Sector. Master's thesis. Naval Postgraduate School, Monterey, California. June 1982. pp. 1-81. An analysis of the Merit Pay System and its effects on productivity and employee motivation. Data is based on a review of relevant literature and attitude survey of 241 merit pay employees at several Navy installations (Study Code 6).

GAO, Analysis of OPM's Report on Pay for Performance in the Federal Government - 1980-1982. GAO/GGD-84-22, October 21, 1983. An analysis of OPM's report focusing on the validity of OPM's findings and conclusions. Findings based on comparison of OPM findings with GAO's two-year study of merit pay in three departments - Navy, HUD, and Agriculture; data for GAO study taken from questionnaires sent to a selected sample of merit pay employees; interviews with merit pay managers; and review of agency records (Study Code 4).

GAO, Federal Merit Pay: Important Concerns Need Attention. GAO/GGD-FPCD-81-9, March 3, 1981. An analysis of preparation, time, and problems which need to be addressed for the effective implementation of the merit pay provisions of the CSRA. Findings based on review of merit pay plans and interviews with officials responsible for merit pay implementation in 23 selected agencies; as well as interviews with officials in three private companies, one local government, two state governments and seven compensation experts (Study Code 2).

GAO, New Performance Appraisals Beneficial But Refinements Needed GAO/GGD-83-72, (September 15, 1983). An analysis of agencies' implementation of performance appraisal systems for General Schedule employees. Data based on an analysis of the performance appraisal system at three agencies, HUD, FTC, and DOI, including interviews with employees, supervisors and reviewing officials, content analysis of 951 performance standards and review of agency records (Study Code 3).

GAO, Serious Problems Need To Be Corrected Before Federal Merit Pay Goes Into Effect. (GAO/GGD-DCD-81-73), September 11, 1981. A study discussing the problems with merit pay implementation and identification of the areas which need to be strengthened in order to avoid program failure. Findings based on a review of data for 21 agencies, six of which implemented merit pay in 1980 and fifteen of which were preparing for payouts in 1981. This study also contains data from the Merit Systems Review Board study of employee attitudes and experience with performance appraisal and merit pay systems.

HHS, Survey of HHS Senior Executives Service Members. 1983. A survey of senior executives in HHS conducted in 1983. The survey is part of a three-year evaluation effort by the Department to assess the impact of the CSRA. Findings are based on a survey questionnaire mailed to all SES'ers in Feb. 1983 (Study Code 5).

OPM, Federal Employee Attitudes.Phase 2: Follow-up Survey 1980, January 1983. An analysis of employee attitudes toward job and workplace satisfaction, pay, organizational functioning and productivity, the effects of the SES, performance appraisal, merit pay, and disciplinary actions. Data was based on a Government-wide attitude survey of senior level employees (GS-13 and above) administered to a random sample of 20,000 employees between Nov. 1980 - Feb. 1981 (Study Code 1).

Ross, Joyce D. and Darrell L. Pugh. "Profile of the Public Personnel Administrator," in Public Personnel Management. Vol. 12, No. 3, Fall 1983; pp. 232 - 243. An analysis of how public personnel administrators feel about their jobs, the problems they are facing, and the programs they implement. Findings were based on data from an attitude survey given to public personnel professionals attending 1982 IPMA Annual Conferences. Surveys were returned from 379 of 681 participants (Study Code 7).

SECTION II

The Merit Systems Protection Board (MSPB) findings for Chapter 3 and this Appendix are based on the Merit Principles Survey. (See Appendix A for a discussion of the methodology of the survey). In some instances, the other studies shown on the table differ methodologically from the study design for Merit Principles Survey. The questions posed by other research groups in an issue area may have been slightly different. In other instances, the samples of respondents from which the other studies collected information were not random. Some surveys were sent only to executives in particular organizations, or sent only to executives based on particular factors (e.g., SES executives who had accepted a geographic reassignment, or only reassignment, or who had left Government). In still other surveys, the respondent sample was both nonrandom and non-Government-wide. For example, the Department of Health and Human Services (HHS) study reference is based on the study of one agency, but the Office of Personnel Management (OPM) case studies concentrate on four agencies. A description of each of these other studies is given in the selected bibliography presented in the Section I of this Appendix.

The studies are identified in the table which follows according to the following numeric codes:

- 1 Office of Personnel Management. Federal Employee Attitude . Phase A: Follow-up Survey 1980, January 1983.
- 2 General Accounting Office. Federal Merit Pay: Important Concerns Needs Attention, March 3, 1981.
- 3 General Accounting Office. New Performance Appraisals Beneficial But Refinements are Needed, September 15, 1983.
- 4 General Accounting Office. Analysis of OPM's Report on Pay for Performance in the Federal Government: 1980 - 1982, October 21, 1983.
- 5 Department of Health and Human Services. Survey of HHS Senior Executive Service Members, 1983.
- 6 Engel, James, Merit Pay as a Motivator in the Federal Sector. Masters' thesis. Naval Postgraduate School, Monterey, California, June 1982. Cited in this report as "Navy merit pay study".
- 7 Ross, Joyce D. and Darrell L. Pugh, "Profile of the Public Personnel Administrator", in Public Personnel Management. Cited in this report as "IPMA Study."

MSPB findings in the table below are summarized in the left hand column. The symbols in the right hand column illustrate whether the Board's findings are similar to (S) or different from (D) the findings in the other studies listed in the study code. An (N) designates that the particular study did not address that issue.

**TABLE C-1. COMPARISON OF MSPB FINDINGS WITH FINDINGS OF
OTHER STUDIES ON INCENTIVES TO PERFORM**

<u>MSPB Findings</u>	Study Code Number						
	1	2	3	4	5	6	7
Basic Incentives to Perform							
1. A majority of Federal employees believe that it is unlikely they will receive more money if they work harder.	S	N	N	N	N	N	N
2. A majority of Federal employees reported that if they work harder, they will be recognized as good performers.	S	N	N	N	N	N	N
3. Reaction among Federal employees is mixed on the issue of whether they would receive nonpay awards if they worked harder.	S	N	N	N	N	N	N
4. A majority of Federal employees report that it is unlikely that they will be promoted to a better job if they work harder.	S	N	N	N	N	N	N

Performance Appraisals

1. Reaction among Federal employees is mixed on the issue of whether they agree that having their performance rated under their agencies' performance appraisal systems makes them work harder.	N	N	N	N	D	N	N
2. A majority of Federal employees believe their performance ratings represent a fair, accurate picture of their performance.	S	S	N	D	N	N	N

Key

S = Study findings are similar
D = Study findings are different from MSPB findings
N = Study did not address this issue

<u>MSPB Findings</u>	<u>Study Code Number</u>						
	1	2	3	4	5	6	7
Merit Pay							
1. A great majority of Federal employees report that, in general, they support having pay based on performance.	S	N	N	N	N	N	N
2. A majority of Federal employees agree that, if given a choice, they would choose <u>not</u> to be covered by their agencies' merit pay system.	N	S	N	S	N	N	N
3. Reaction among Federal employees is mixed as to whether they believe they would be earning less if their present positions were <u>not</u> covered by merit pay.	N	N	N	D	N	N	N
4. A majority of Federal employees report that merit pay as currently operated is <u>not</u> enough to encourage them to perform well.	N	N	N	N	N	N	S
5. A majority of Federal employees report that merit pay as currently operated is <u>not</u> an effective tool for motivating employees to improve performance.	N	S	S	S	N	S	N
Dealing with Poor Performance							
1. A majority of Federal employees claim that if they supervised an employee performing unsatisfactorily, they would be likely to recommend formal disciplinary action.	N	N	N	N	N	N	N

Source:

Senior Executive Service respondents to MSPB "Merit Principles Survey" who were selected in a random, stratified Government-wide sample of Federal employees.

APPENDIX D

COMPARISON OF MSPB MAJOR STUDY FINDINGS WITH OTHER STUDIES ON THE SENIOR EXECUTIVE SERVICE IN THE FEDERAL GOVERNMENT

This appendix consists of two sections. Section I is an annotated bibliography of studies on Senior Executive Service (SES) prepared by Government organizations with oversight responsibility for SES in the legislative and executive branches. Section II provides a table comparing the findings of the Merit Systems Protection Board (MSPB) study in 1983 on SES with the findings of the other studies covering the SES.

SECTION I

Selected Bibliography of Other Studies in the Federal Government on the SES

This selected bibliography covers studies on the SES published between October 1979 and 1983 by the following organizations: the Office of Personnel Management, the General Accounting Office, the Department of Health and Human Services, the U.S. House of Representatives, the U.S. Senate, the National Aeronautics and Space Administration, the President's Commission on the Private Sector Cost Survey (the Grace Commission), and the Commission on Executive, Legislative and Judicial Salaries (Quad Commission).

Commission on Executive, Legislative and Judicial Salaries. The Report of the Commission on Executive, Legislative and Judicial Salaries. Dec. 1980. Report from a committee appointed every four years to make recommendations on the appropriate level of compensation for positions in the three branches. The 1980 report recommended salary increases averaging 40 percent (Study Code 8).

Engel, James. Merit Pay as a Motivator in the Federal Sector. Master's thesis. Naval Postgraduate School, Monterey, California. June 1982. pp. 1-81. An analysis of the Merit Pay System and its effects on productivity, and employee motivation. Data is based on a review of relevant literature and attitude survey of 241 merit pay employees at several Navy installations.

GAO, Actions Needed to Enhance the Credibility of Senior Executive Service Performance Award Programs. FPCD-81-65 (Sept. 30, 1981). A study of SES performance and rank awards paid as of June 1981. The findings are based on on-site visits to seven agencies; review of data on SES award recipients provided by OPM.

GAO, Analysis of OPM's Report on Pay for Performance in the Federal Government - 1980-1982. GAO/GGD-84-22 (Oct. 21, 1983). An analysis of OPM's report focusing on the validity of OPM's findings and conclusions. Findings based on comparison of OPM findings with GAO's two-year study of merit pay in three departments - Navy, HUD, and Agriculture; data for GAO study taken from questionnaires sent to a selected sample of merit pay employees; interviews with merit pay managers; and review of agency records.

GAO, Evaluations Called for to Monitor and Assess Executive Appraisal Systems.

FPCD-81-55 (August 3, 1981). An analysis of the implementation of the SES performance appraisal systems and of senior executives' perceptions toward those systems. The findings were based as data from on-site visits to seven agencies; a review of agency records; questionnaires sent to SES'ers in 53 agencies; and interviews with agency officials (Study Code 5).

GAO, Effects of the Presidential Transition on the Senior Executive Service.

FPCD-82-29 (March 23, 1982). An analysis of how the SES functioned during the Presidential transition. Findings were based on a review of general information regarding reassignments from 33 agencies and a more detailed analysis of reassignments in six agencies.

GAO, Federal Merit Pay: Important Consensus Need Attention GAO/GGD-FPCD-81-9

(March 3, 1981). An analysis of the preparation, time, and problems which need to be addressed for the effective implementation of the merit pay provisions of the CSRA. Findings were based on review of merit pay plans and interviews with officials responsible for merit pay implementation in 23 selected agencies; as well as interviews with officials in three private companies, one local government, two state governments and seven compensation experts.

GAO, Information on the Costs of Geographic Reassignments for SES Employees.

PL-4667/966115 (May 13, 1983). Information on the cost of geographic reassignments for Senior Executive Service employees for July 1979 to Feb. 2, 1983. Findings based on data from 536 geographic reassignments in 29 departments and agencies.

GAO, New Performance Appraisals. Beneficial, But Refinements Needed.

GAO/GGD-83-72. (Sept. 15, 1983). An analysis of agencies' implementation of performance appraisal systems for General Schedule employees. Data based on an analysis of the performance appraisal system at three agencies - HUD, FIC, and DOI, inclusive 131 interviews with employees, supervisors and reviewing officials, content analysis of 951 performance standards and review of agency records.

GAO, Number, Cost and Reasons for SES Reassignments. PC-4638/966115

(January 7, 1983). A review of total reassignments both geographic and nongeographic in the SES from July 1979 to Sept. 1982. Figures from an OPM maintained data base.

GAO, Reassignment of Senior Executive Service Members at the Department of the Interior.

GAO/GGD-84-19 (Nov. 4, 1983). An analysis of the Department's Career Enhancement Program to examine whether the policy of reassigning SES members between agency bureaus might be misused. Findings were based on data from interviews with Department officials, review of documents announcing and implementing the program, and telephone interviews with 22 SES members reassigned under the Career Enhancement Program (Study Code 6).

GAO, Reassignments of SES members at the Department of the Interior.

GAO/GGD-84-19 (Nov. 4, 1983). An analysis of executive reassignments in the Department of Interior. Findings based on data from on-site reviews, interviews with agency personnel and SES members.

GAO, Serious Problems Need to be Corrected Before Federal Merit Pay Goes Into Effect. GAO/GGD-7 DCD-81-73 (Sept. 11, 1981). A study discussing the problems with merit pay implementation and identification of the areas which need to be strengthened in order to avoid program failure. Findings were based on a review of data from 21 agencies, six which implemented merit pay in 1980 and 15 preparing for payouts in 1981; also data from Merit Systems Review Board Study of employee attitudes and experiences with performance appraisal and merit pay systems.

GAO, Report by the Comptroller General to the Chairwoman, Subcommittee on Civil Service, House Committee on Post Office and Civil Service, House of Representatives. Testimony of the Comptroller General on the Impact of the Senior Executive Service. GAO/GGD-84-32, December 30, 1983. This testimony, presented on November 7, 1983, outlines GAO's examination of the 8,243 SES slots allocated and 6,945 SES slots filled in the SES. Four key areas were the subject of the GAO evaluation: (1) executive accountability for program operations, (2) agency flexibility in using executive resources, (3) protection from improper political influence, and (4) improvements in executive managerial capabilities (Study Code 7).

HHS, Survey of HHS Senior Executives Service Members. 1983. A survey of senior executives in HHS conducted in 1983. The survey is part of a three-year evaluation effort by the Department to assess the impact of the CSRA. Findings are based on a survey questionnaire mailed to all SES'ers in Feb. 1983 (Study Code 9).

OPM, Federal Employee Attitudes. Phase 2: Follow-up Survey 1980, January 1983. An analysis of employee attitudes toward job and workplace satisfaction, pay, organizational functioning and productivity, the effects of the SES, performance appraisal, merit pay, and disciplinary actions. Data was based on a Government-wide attitude survey of senior level employees (GS-13 and above) administered to a random sample of 20,000 employees between Nov. 1980 - Feb. 1981 (Study Code 1).

OPM, SES Case Studies. Round 1, (Oct. 1979 - Jan. 1980), Round 2, (Dec. 1980 - Feb. 1981), Round 3, (Apr. 1983 - May 1983). An analysis of the implementation, functioning, and assessment of the SES in four agencies and the senior executives' perceptions towards these systems. Findings were based on data collected from on-site review, interviews with SES'ers and agency personnel, and questionnaires in March - April 1983 (Study Code 2).

OPM, SES Special Study. Managerial Flexibility During a Change in Administration. U.S., OPM, March 1982. An analysis of reassignments of career executives during and after the 120-day moratorium. The study also included a comparison of reassignments during the Carter Administration. Findings were based on data from OPM-Executive personnel and the Management Development Information System.

OPM, Special Study - SES Performance Awards, Incentive Awards, Ranks and Pay Adjustments. 1981- An analysis of the SES bonus, incentive awards, rank and pay adjustment process, designed to provide information on the actual workings among these processes and on any relationship which might exist among them. Data was based on a review of personnel folders of 7,005 SES'ers in 19 agencies as well as personal interviews with over 60 PRB officials. The study was conducted in 1981 and was based on data from the first cycle of performance bonuses and rank awards (Study Code 3).

OPM, Why Executives Leave the Federal Service. Survey 2. July 1979 - Sept. 1980. FPMD Group - SES Division, April 1981. An analysis of the reasons why SES'ers leave Federal service. Data from self-administered survey sent to a random sample of senior executives who left the Government between July 1979 and Sept. 1980 (Study Code 4).

Ross, Joyce D. and Darrell L. Pugh. "Profile of the Public Personnel Administrator," in Public Personnel Management. Vol. 12, No.3, Fall 1983; pp. 232-243. An analysis of how public personnel administrators feel about their jobs, the problems they are facing, and the programs they implement. Findings were based on data from an attitude survey given to public personnel professionals attending 1982 IPMA Annual Conference. Surveys were returned from 379 of 681 participants.

SEA, Future of SES Survey. (May 3, 1983). Attitude survey conducted September 1982. A Government-wide attitude Survey of 1,200 SEA members which focused on the overall functioning of the SES as a personnel system (Study Code 10).

SECTION II

The Merit Systems Protection Board (MSPB) findings for Chapter 4 and this Appendix are based on the Merit Principles Survey's randomly selected, stratified sample of Government-wide Senior Executive Service employees. All executives had an equal chance of being selected as part of the sample. The other studies listed in some cases differ methodologically from the MSPB study design. In some instances, the questions posed by other research groups in an issue area may have been slightly different. In other cases, the samples of respondents from which the other studies collected information were not random. Some surveys were sent only to executives in particular organizations, or sent only to executives based on particular factors (e.g., SES executives who had accepted a geographic reassignment, or any reassignment, or who had left Government). In other surveys, the respondent sample was both nonrandom and non-Government-wide. For example, the Department of Health and Human Services (HHS) study reference is based on the study of one agency, but the Office of Personnel Management (OPM) case studies concentrate on four agencies. A description of each of these studies listed is provided in the bibliography in Section I of this appendix.

The other studies are identified on the table according to the following numeric codes:

- 1 Office of Personnel Management, Federal Employee Attitudes. Phase 2: Follow-up Survey 1980, January 1983.
- 2 Office of Personnel Management, SES Case Studies. Round 1 (October 1979 - January 1980), Round 2 (December 1980 - February 1981), Round 3 (April 1983 - May 1983).
- 3 Office of Personnel Management, SES Performance Awards, Incentive Awards, Ranks and Pay Adjustments, 1981.
- 4 Office of Personnel Management, Why Executives Leave the Federal Service, Survey 2, July 1979 - September 1980.
- 5 General Accounting Office. Report by the Comptroller General, Evaluations Called for to Monitor and Assess Executive Appraisal Systems, August 3, 1981.
- 6 General Accounting Office. Letter/report from William J. Anderson to Honorable Patricia Schroeder, Chairwoman, Subcommittee on Civil Service, Committee on Post Office and Civil Service, House of Representatives, Reassignment of SES Members at the Department of Interior, November 4, 1983.

- 7 General Accounting Office. Report by the Comptroller General to the Chairwoman, Subcommittee on Civil Service, House Committee on Post Office and Civil Service, House of Representatives, Testimony of the Comptroller General on the Impact of the Senior Executive Service, December 30, 1983.
- 8 Commission on Executive, Legislative and Judicial Salaries. The Report of the Commission on Executive, Legislative and Judicial Salaries, 1980.
- 9 Department of Health and Human Services, Survey of HHS Senior Executives Service Members, 1983.
- 10 Senior Executives Association. Survey of SES Members. Future of SES Survey, May 3, 1983.

The following table compares the findings of the MSPB with those of other studies examining the effectiveness of the Senior Executive Service system.

The MSPB findings are summarized in the left hand column. The symbols in the right hand column show whether the Board's findings are similar to (S) or different from (D) the findings in the other studies listed. An (N) designates that the particular study did not address that issue.

TABLE D-1. COMPARISON OF MSPB FINDINGS WITH FINDINGS OF OTHER STUDIES ON SES

MSPB Findings	Study Code Number									
	1	2	3	4	5	6	7	8	9	10
1. Nearly half the executives believe the advantages of being in SES do <u>not</u> outweigh the disadvantages.	D	D	N	N	N	N	N	N	D	S
2. A majority of executives feel that SES as a system of management has no impact on their ability to get their jobs done.	D	D	N	N	D	N	S	N	S	D
3. Reaction is mixed on the issue of whether bonuses were earned.	S	S	N	N	N	N	N	N	S	S
4. The great majority of executives agree that there are enough bonuses to go around.	S	N	N	N	N	N	S	N	S	N
5. The majority of executives believe that SES bonuses are distributed to executives at the top of the agency.	S	N	S	N	N	N	S	N	N	N
6. A majority of executives who work on low visibility projects have little chance of receiving bonus awards.	N	N	N	N	N	N	N	N	D	N
7. Nearly all the executives believe that pay compression will probably reoccur.	N	N	N	N	N	N	N	N	D	S

Key

S = study findings are similar to MSPB findings

D = study findings are different from MSPB findings

N = study did not address this issue

<u>MSPB Findings</u>	<u>Study Code Number</u>									
	1	2	3	4	5	6	7	8	9	10
8. Reaction is mixed on the issue of whether executives would move to a GS 16-18 job if vacant.	N	N	N	N	N	N	N	N	D	D
9. Reaction is mixed on the issue of whether executives believe their agencies were successful at basing compensation, retention, and tenure on executive success measured in terms of individual and organizational performance.	D	N	N	N	S	N	N	N	N	N
10. Nearly half of the executives report their agencies are successful in assuring that executives are accountable for the effectiveness and productivity of employees reporting to them.	S	N	N	N	N	N	N	N	N	S
11. Nearly half of the executives agree that their agencies are successful at recognizing exceptional accomplishments.	S	S	N	N	N	N	N	N	N	N
12. Reaction is mixed on the issue of whether executives believe that their agencies are successful in enabling the agency heads to reassign SES to accomplish agency mission.	N	D	N	N	N	D	D	N	N	N
13. Reaction is mixed on the issue of whether executives believe their agencies are successful at protecting executives from arbitrary actions.	S	N	N	N	N	N	D	N	D	S

Study Code Number

MSPB Findings

	1	2	3	4	5	6	7	8	9	10
14. The majority of executives believe that their agencies are <u>not</u> successful at providing a compensation system designed to attract and retain competent senior executives.	S	S	N	N	N	N	N	N	D	S
15. The majority of executives believe that it is unlikely that they will receive more pay if they work hard.	S	N	N	N	N	N	N	N	N	N
16. The majority of executives believe that even if they work hard, they will not get a promotion.	S	N	N	N	N	N	N	N	S	N
17. The majority of executives believe that they could find a higher paying job outside the Government within twelve months.	S	N	N	N	N	N	N	N	N	S
18. The majority of executives reported that they have <u>not</u> looked for a job outside the Government within twelve months.	D	N	N	N	N	N	N	N	N	S
19. A small majority of executives reported that they had not been recruited for a job within the last twelve months; a near majority reported that they had been.	N	N	N	D	N	N	N	N	N	N

Study Code Number

[illegible]

<u>MSPB Findings</u>	Study Code Number									
	1	2	3	4	5	6	7	8	9	10
26. Reaction is mixed on the issue of whether salary is a reason for staying.	S	S	N	S	N	N	N	S	S	S
27. Reaction is mixed on the issue of whether promotion opportunities are a reason for staying.	D	N	N	N	N	N	N	N	N	D
28. The majority of executives report that the lack of a job outside is neither a reason for staying nor leaving.	N	N	N	N	N	N	N	N	N	S
29. The majority of executives report that they are satisfied working for the Federal Government.	S	S	N	N	N	N	N	N	N	S

Source:

Senior Executive Service respondents to MSPB "Merit Principles Survey" who were selected in a random, stratified Government-wide sample of Federal employees.

APPENDIX E

BIBLIOGRAPHY OF SELECTED STUDIES ON RIF IN THE FEDERAL GOVERNMENT

This bibliography covers studies on RIF published between October 1979 and June 1983 by the following organizations: (1) the Federal Government Service Task Force, (2) the Federal Personnel Compensation Division of the General Accounting Office, (3) the Merit Systems Protection Board, and (4) the Office of Personnel Management.

Federal Government Service Task Force. RIF Report: Analysis of Impact on Women and Minorities (FY 1981), Washington, D.C., December 30, 1981.

Analysis of the number of separations, downgradings, and lateral reassignments connected to RIF's in FY 1981, and the resulting impact on women and minorities. Data were collected by the Task Force from 47 agencies reporting RIF's.

Federal Government Service Task Force. Summary of Task Force RIF Survey: Q1, Q2, FY 1982 (ending 3/31/82), Washington, D.C., August 19, 1982.

An analysis of the numbers of separations, downgradings, lateral reassignments, and retirements connected to RIF's in the first and second quarters of FY 1982, and the resulting impact on women and minorities. Data were collected by the Task Force from 32 agencies reporting RIF's.

Federal Government Service Task Force. Reduction in Force Survey--Third Quarter, Fiscal Year 1982, Washington, D.C., December 1982.

An analysis of the numbers of separations, downgradings, lateral reassignments, and retirements connected to RIF's in the third quarter of FY 1982, and resulting impact on women and minorities. The report indicates that there were fewer RIF's in this quarter than in the first two quarters of FY 1982. Data were collected by the Task Force from 41 agencies, with 26 reporting RIF's.

Federal Government Service Task Force. Fiscal 1982 Reductions in Force and Fourth Quarter Survey, Washington, D.C., June 1983.

An analysis of the numbers of separations, downgradings, lateral reassignments, and retirements connected to RIF's in the fourth quarter of FY 1982, and the resulting impact on women and minorities. The report indicates that there were fewer RIF's in the fourth quarter and that these RIF's focused more on senior higher-graded staff than the RIF's in the other three quarters of FY 1982. This report also provides a summary of the total RIF actions for FY 1982.

General Accounting Office. Assistance to Displaced Federal Civilian Employees--Avoiding Loss of Needed Trained Personnel (FPCD-80-3), Washington, D.C., October 16, 1979.

A study of selected agency outplacement efforts between January 1977 and December 1978 to determine the effectiveness of positive placement programs, reemployment priority lists, and OPM's Displaced Employee Program in placing RIF-affected employees. The report was based on on-site reviews of program documents, interviews with program officials in the field and headquarters, and an analysis of placement data.

General Accounting Office. Department of Energy's Fiscal Year 1981 Reduction in Force (FPCD-83-33), Washington, D.C., March 8, 1982.

A study on whether the FY 1981 RIF's in several offices in the Department of Energy were conducted in accordance with RIF laws and regulations, as well as an analysis of other related issues. The report was based on on-site interviews, records reviews, and a reconstruction of relevant RIF actions.

General Accounting Office. Programs to Help Displaced Federal Civilian Employees Obtain Employment (GAO/FPCD-82-75), Washington, D.C., September 28, 1982.

A study of Federal employees affected by RIF's in FY 1981 to determine the placement assistance received and the effects of RIFs on their morale and productivity. The study was based on the responses to a written questionnaire sent to a statistically valid sample of Federal employees who received specific notices in FY 1981.

General Accounting Office. Follow-up to Report Entitled--Programs to Help Displaced Federal Civilian Employees Obtain Employment (GAO/FPCD-82-75), Washington, D.C., January 11, 1983.

An analysis of RIF separation and hiring actions of full-time competitive service employees for Calendar Year 1981, with focus on whether agencies had hired new employees to fill jobs similar to those that RIF'ed employees had been performing. Although the report does not draw conclusions for its analysis, it implies that more RIF'ed employees could have been rehired.

General Accounting Office. Savings from 1981 and 1982 Personnel Ceiling Reductions (FPCD-82-23), Washington, D.C., January 15, 1982.

A critical analysis that challenges OMB's figures for estimated savings resulting from reduced personnel ceilings in Federal agencies. The report documents specific RIF costs and reduced tax revenues to support the conclusion that short-term savings for personnel ceiling reductions would be significantly less than OMB's estimates.

General Accounting Office. Staff Reductions in the Office of Solicitor, Department of Interior (FPCD-82-3), Washington, D.C., January 29, 1982.

A study conducted in the Office of the Solicitor in the Department of the Interior to determine the reasons for the 1981 RIF, the consideration given to alternatives, and the procedures followed in conducting the RIF. The report was based on on-site interviews, reviews of relevant documents, and estimated rates of attrition.

Merit Systems Protection Board. Reduction in Force in the Federal Government, 1981: What Happened and Opportunities for Improvement, Washington, D.C., June 1983.

A study based on employee perceptions of the 1981 reductions in force (RIF's) to determine if the RIF's were conducted in accordance with the merit principles and with the avoidance of prohibited personnel practices. The data for this study were based on on-site interviews with those knowledgeable about the RIF process and Government-wide surveys of 2,600 Federal employees and 800 senior Federal personnel officials. Some of the topics covered in this report include: the extent to which the 1981 RIF complied with the RIF regulations promulgated by OPM and the agencies, the extent to which the 1981 RIF affected the efficiency and effectiveness of the work force, and ways in which the RIF system could be improved in the future.

Office of Personnel Management. Reductions in Force in Selected Federal Agencies, Washington, D.C., June 1982.

A study of 1981 and 1982 RIF's in selected agencies to determine the extent to which the agencies were conducting RIF's in compliance with laws, regulations, and their own policies; and to determine what steps agencies were taking to minimize the disruptions caused by RIF's. The study was based on on-site audits at 12 agencies at 24 locations where RIF's were either planned or in progress during December 1981 and January 1982.

APPENDIX F

BIBLIOGRAPHY OF MERIT SYSTEMS REVIEW AND STUDIES REPORTS

Under the mandate of the Civil Service Reform Act of 1978, the Merit Systems Protection Board (MSPB) shall:

. . . conduct special studies relating to the civil service and to other merit systems in the Executive Branch and to report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

(5 U.S.C. 1205(a)(3))

The Office of Merit Systems Review and Studies (MSRS) of the MSPB is responsible for determining whether the merit principles established by law (5 U.S.C. 2301) are being effectively implemented, and whether prohibited personnel practices (5 U.S.C. 2302) are being avoided in Federal agencies. MSRS studies the rules, regulations, and significant actions of the Office of Personnel Management (OPM) and evaluates the health of the Federal civil service system through a variety of techniques. Among these are surveys, agency specific case studies, on-site interviews, roundtable discussions, and traditional investigative techniques. Research topics are selected to produce studies that are bias-free, definitive and reliable indicators of civil service problems, and which identify ways in which these problems can be addressed. A bibliography of all published MSRS reports is given below.

A Report on the Senior Executive Service, September 1981, 83 pages.

This study was undertaken to determine whether the Senior Executive Service is providing the flexibility needed by management to recruit and retain the qualified executives needed to manage Federal agencies more effectively. Data for this report were derived from survey responses from approximately 1,000 senior executives and an in-depth phone survey of 100 additional SES'ers. The report covers many topics including: the impact of the bonus restrictions, the ceiling on executive pay, and politicization of the SES.

Breaking Trust: Prohibited Personnel Practices in the Federal Service, February 1982, 50 pages.

This monograph reports on prohibited personnel practices as experienced by several key groups of Federal employees. The survey data were drawn from a random selection of 1,000 senior executives, 3,000 midlevel employees, 1,200 senior personnel officials, and 8,600 employees in all grade levels. Among other things, the report describes: the Government-wide incidences of prohibited personnel practices and the incidences of such practices in individual agencies.

Do Federal Employees Face Reprisal for Reporting Fraud, Waste, or Mismanagement? Preliminary Report, April 1981, 50 pages.

This is the preliminary report on "whistleblowing" and the Federal employee. Survey data for this study were gathered from 8,600 Federal employees in all grade levels from 15 agencies. This study reports on a number of issues including: the number of observations of illegal or wasteful activities that go unreported and the outcome when they are reported.

Reduction in Force in the Federal Government, 1981: What Happened and Opportunities for Improvement, June 1983, 149 pages.

This study reviewed employee perceptions of the 1981 reduction-in-force (RIF) practices to determine if the RIF's were conducted in accordance with the merit principles and with the avoidance of prohibited personnel practices. The data for this study were based on on-site interviews with those knowledgeable about the RIF process and Government-wide surveys of 2,600 Federal employees and 800 senior Federal personnel officials. Some of the topics covered in this report include: the extent to which the 1981 RIF complied with the RIF regulations promulgated by OPM and the agencies, the extent to which the 1981 RIF affected the efficiency and effectiveness of the work force, and ways in which the RIF system could be improved in the future.

Sexual Harassment in the Federal Workplace: Is it a Problem?, March 1981, 208 pages.

In response to a congressional request, the Board explored the nature and extent of sexual harassment in Federal Government. Survey data for this study were based on the responses of over 20,000 men and women in the Federal work force. This report covers the following topics: the view of Federal workers toward sexual harassment, the extent of sexual harassment in the Federal Government, the characteristics of the victims and the perpetrators, incidents of sexual harassment, its impact and costs, and possible remedies and their effectiveness.

Status Report on the Performance Appraisal and Merit Pay Among Midlevel Employees, June 1981, 27 pages.

This study focused on the experiences of midlevel employees in the first eight agencies that implemented Merit Pay in October 1980. The data were drawn from a survey of approximately 3,000 employees in grades GS 13-15. The study examines employee perceptions of their performance standards and the performance appraisal system, especially as it relates to improved performance, and their opinions on the fairness of the Merit Pay System.

Study of MSPB Appeals Decisions for 1980, May 1981, 48 pages.

Study of MSPB Appeals Decisions for 1981, Dec. 1982, 70 pages.

One of the principal functions of the Merit Systems Protection Board is to hear the appeals of Federal employees from one or another of various types of personnel actions taken or denied by Government agencies. These studies, released annually, analyze the Board's processing of the appeals during preceding fiscal years and place the results in historical context.

Study of the Significant Actions of the Office of Personnel Management During 1980, June 1980, 99 pages.

The Civil Service Reform Act of 1978 mandated that the Merit Systems Protection Board monitor the significant actions of the Office of Personnel Management and report to the President and the Congress on the rectitude of those actions. This was the first such report on OPM and data were derived from a survey of more than 1,200 senior personnel officials and interviews with Directors of Personnel of all cabinet and military departments. Issues covered included a discussion of: what OPM did to promote the merit principles and prevent the commission of prohibited personnel practices, OPM's delegated and decentralized authority, and safeguards and programs set up for the Senior Executive Service.

Study of the Significant Actions of the Office of Personnel Management During 1981, December 1982, 63 pages.

This is the second annual report on significant actions of the Office of Personnel Management. Data for this report were derived from the comments solicited from organizations and individuals with a specific interest in the Federal personnel system, including on-site interviews with Directors of Personnel and other senior executives. Among other topics, this study discussed the implementation of merit pay, problems in recruiting and keeping executive talent, and the morale of the Federal work force.

The Elusive Bottom Line: Productivity in the Federal Work Force, May 1982, 46 pages.

This report examines how well the merit system principle calling for an efficient and effective work force is being realized. Survey data were gathered from randomly selected Federal employees including 1,000 senior executives and 3,430 midlevel employees. This study reports on employees' perceptions of their overall productivity, whether the amount of work could be increased, and whether the quality of their work could be improved.

The Other Side of the Merit Coin: Removals for Incompetence in the Federal Service, February 1982, 34 pages.

This monograph explores the question of whether Federal employees who cannot or will not improve their inadequate performance are being separated from their positions. Data for this report were drawn from the following: OPM's Central Personnel Data File, and MSPB's questionnaire surveys of 1,000 senior executives, 1,200 senior personnel officials, and 3,000 midlevel employees. The report discussed employees' expectations of removals based on poor performance and noted that the expectation of removal varies among Government-wide populations.

Whistleblowing and the Federal Employee: Blowing the Whistle on Fraud, Waste and Mismanagement - Who Does it and What Happens. October 1981, 87 pages.

This is the final report on "whistleblowing" and the reprisals that are sometimes taken against those who report an incidence of fraud, waste or abuse. Survey data were gathered from approximately 3,600 Federal employees in 15 agencies. The report covers a wide range of issues including: the number of employees who observed one or more instances of illegal activities, reasons given for not reporting these activities, and what happens to employees who do report illegal or wasteful activities.

ALL STUDIES CAN BE OBTAINED BY WRITING:

Reports
Office of Merit Systems Review and Studies
U.S. Merit Systems Protection Board
Room 836
1120 Vermont Avenue N.W.
Washington, D.C. 20419



U.S. MERIT SYSTEMS PROTECTION BOARD
Washington, D.C. 20419

July 1, 1983

Dear Federal Co-workers:

The Merit Systems Protection Board--an independent Federal agency established by the Civil Service Reform Act of 1978--is conducting a study of the Federal personnel system. The results will be reported to Congress and the President and made available to the public. We need your help.

We'd like you to tell us how various personnel policies and programs are working. Your opinions and experiences can make a difference, but only if you take the time to complete this survey (in the privacy of your home, if you wish) and return it directly in the envelope provided. On the average, it will take most people about twenty minutes to fill out the portions of the questionnaire that apply to them.

We will keep your answers confidential. We have no way of identifying who completed the questionnaires returned to us. For this reason please do **not** write your name anywhere on the questionnaire or ask anyone else to fill it out for you.

In developing this questionnaire we have consulted with the national headquarters of Federal employee unions and associations. We urge you to take advantage of this opportunity to make your views known.

Thank you for your assistance.

Sincerely,

Dennis L. Little
Director, Office of Merit Systems
Review and Studies

Merit Principles Survey: How Well is the Merit System Working?

This is a survey about your opinions and experiences as a Federal employee. Through this survey, we will be looking at how several key aspects of the merit system are working.

In this questionnaire we ask you about:

- Your job and the personnel practices in your work group.
- Protections for employees who report fraud and waste in Government operations.
- The merit pay system for Federal supervisors and management officials.
- The Government's ability to deal constructively with performance problems.
- Your work history and some general questions about you.

You will probably not need to answer every question. Instructions throughout the questionnaire will tell you which questions to skip since not every question will apply to you. You will also have the opportunity to write in any additional comments on the last page of the questionnaire.

Privacy Act Notice:

Collection of the requested information is authorized by the Civil Service Reform Act of 1978 (P.L. 95-454). Your participation in this survey is completely voluntary and none of the information you choose to supply will be associated with you individually.

Section I

General Employment Questions

This section asks about your job and the personnel practices in your work group. (Please check ONE box for each question, unless otherwise directed.)

THROUGHOUT THIS QUESTIONNAIRE, THE TERM "YOUR WORK GROUP" REFERS TO THE PEOPLE WITH WHOM YOU COME IN CONTACT ON A MORE-OR-LESS DAILY BASIS. IF YOU ARE A SUPERVISOR, ANSWER IN TERMS OF THE PEOPLE YOU SUPERVISE.

1. About how many people are there in your work group?

- 1 ☐ 1 - 5 persons
- 2 ☐ 6 - 15 persons
- 3 ☐ 16 - 25 persons
- 4 ☐ 26 or more
- 5 ☐ Don't know/can't judge

2. How often is good use made of your skills and abilities in your present job?

- 1 ☐ Almost always
- 2 ☐ Usually
- 3 ☐ Sometimes
- 4 ☐ Seldom
- 5 ☐ Never
- 6 ☐ Don't know/can't judge

3. If you work harder in your present job, how likely is it that you will:

	Very likely	Somewhat likely	Neither likely nor unlikely	Somewhat unlikely	Very unlikely	Don't know/ can't judge
a. Receive more pay?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
b. Be recognized as a good performer?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
c. Receive other non-pay rewards?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
d. Be promoted or get a better job?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6

4. In general, how do you feel about your job and the personnel practices in your work group?

	Definitely yes	Probably yes	Neither yes nor no	Probably no	Definitely no	Don't know/ can't judge
a. Are cash awards and bonuses given out fairly, on the basis of performance, in your work group?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
b. Would your supervisor try to help a poor performer improve?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
c. Would your supervisor try to remove an employee who even after coaching could not or would not perform satisfactorily?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6
d. Would your supervisor try to force an employee to resign by attempting to transfer him or her to a different location?	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5	<input type="checkbox"/> 6

Definitely Yes
Probably Yes
Neither Yes nor No
Probably No
Definitely No
Don't know/
can't judge

- e. Could you find a higher paying job outside Government within the next 12 months?
- f. During the past 12 months, have you actively looked for a job outside Government?
- g. During the past 12 months, have you been actively recruited for or offered a job outside Government?
- h. Do you plan to leave Government before you are eligible to retire?
- i. Do you plan to retire as soon as you are eligible?

5. How does your pay compare to that of employees outside Government who are doing jobs similar to yours?

- 1 ☐ I am paid much less
2 ☐ I am paid somewhat less
3 ☐ I am paid about the same
4 ☐ I am paid somewhat more
5 ☐ I am paid much more
6 ☐ Don't know/can't judge

6. To what extent are the following reasons to continue working for the Government? (Please check only ONE box for each item.)

Strong reason for staying in Government
More a reason to stay than leave
Neither a reason to stay or leave
More a reason to leave than stay
Strong reason for leaving Government
Don't know/
can't judge

- a. Public image of Federal workers.
- b. Opportunity to have an impact on public affairs.
- c. The work itself, the duties you perform.
- d. Current Federal retirement system.
- e. Proposals to change current Federal retirement system.
- f. Salary.
- g. Promotional opportunities.
- h. Possibility of losing your job.
- i. Lack of jobs outside.
- j. Other (Please specify on the last page of this questionnaire.)

7. Considering everything, how satisfied are you with working for the Federal Government at the present time?

- 1 ☐ Very satisfied
- 2 ☐ Satisfied
- 3 ☐ Neither satisfied nor dissatisfied
- 4 ☐ Dissatisfied
- 5 ☐ Very dissatisfied
- 6 ☐ Don't know/can't judge

8. Does having your performance rated under your agency's performance appraisal system make you try to do a better job?

- 1 ☐ Definitely yes
- 2 ☐ Probably yes
- 3 ☐ Neither yes or no
- 4 ☐ Probably not
- 5 ☐ Definitely not
- 6 ☐ Don't know/can't judge

9. If performance appraisal does not make you try to do a better job, which of the following best describes the reason why? (Please check only ONE box).

- 1 ☐ My performance standards are unfair as they are written.
- 2 ☐ My supervisor doesn't apply my standards fairly when rating me.
- 3 ☐ My supervisor doesn't take into account factors beyond my control when rating me (e.g., inadequate tools, resources, delays by other offices, etc.).
- 4 ☐ There is a limit on the number of people who can get high ratings.
- 5 ☐ If you are rated high nothing happens.
- 6 ☐ If you are rated low nothing happens.
- 7 ☐ Not sure/can't judge
- 8 ☐ Other reasons (Please specify on last page of this questionnaire.)

10. Have you received a performance appraisal in the past 12 months?

- 1 ☐ No
- 2 ☐ Don't know/can't judge
- 3 ☐ Yes

11. Were written performance appraisal standards used as the basis for this rating?

- 1 ☐ Yes
- 2 ☐ No
- 3 ☐ Don't know/can't judge

12. Did your performance rating present a fair and accurate picture of your actual job performance?

- 1 ☐ Definitely yes
- 2 ☐ Probably yes
- 3 ☐ Not sure
- 4 ☐ Probably not
- 5 ☐ Definitely not
- 6 ☐ Don't know/can't judge

13. During the past 12 months, have you personally observed someone being given a job or job reward or have you been denied a job or job reward on the basis of any of the following? (If none of the following apply, please skip to Question 14.)

	I saw someone given a job or job reward because of:	I was denied a job or job reward because of:
NOTE: Job or job reward refers to training, bonuses, being hired or promoted, etc.		
a. Being a member of a minority group.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
b. Being a woman.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
c. Being a non-minority male.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
d. Being over age 40.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
e. Handicap unrelated to job requirements.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
f. Marital status.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
g. Religious affiliation or beliefs.	1 <input type="checkbox"/>	1 <input type="checkbox"/>
h. Political affiliation.	1 <input type="checkbox"/>	1 <input type="checkbox"/>

Section III

Merit Pay

25. Are you at the GS (or GM) 12 through 15 grade level?

- ¹ ☐ No —————→ Please skip to Section IV, page 8.
² ☐ Yes

In this section we want to know how well the Government's relatively new merit pay system for supervisors and management officials at grades 13 through 15 is working. (Please check ONE box for each question, unless otherwise directed.)

26. In general, do you support having your pay based upon how well you perform?

- ¹ ☐ Definitely yes
² ☐ Probably yes
³ ☐ Not sure
⁴ ☐ Probably not
⁵ ☐ Definitely not
⁶ ☐ Don't know/can't judge

27. How much do you know about the current merit pay system for supervisors and management officials at grades 13 through 15 in your agency?

- ¹ ☐ A great deal
² ☐ Quite a bit
³ ☐ Some
⁴ ☐ Little
⁵ ☐ Very little or nothing. } —————→ Please skip to Section IV, page 8.

28. If you had a choice, would you choose to be covered by your agency's current merit pay system?

- ¹ ☐ Definitely yes
² ☐ Probably yes
³ ☐ Not sure
⁴ ☐ Probably not
⁵ ☐ Definitely not
⁶ ☐ Don't know/can't judge

29. Which one of the following actions would most improve merit pay in your work group? (Please check ONE box.)

- ¹ ☐ Making performance ratings more accurate.
² ☐ Giving employees more opportunity to participate in the setting of their performance standards.
³ ☐ Basing the pay-outs strictly on performance.
⁴ ☐ Increasing the money available to reward good performers.
⁵ ☐ Some other reason (please specify on the last page of this questionnaire.)
⁶ ☐ Nothing needs to be done to improve the system.
⁷ ☐ Don't know/can't judge

30. Are you presently covered by the merit pay system?

- ¹ ☐ No
² ☐ Not sure } —————→ Please skip to Question 34.
³ ☐ Yes

31. How long have you been covered by the merit pay system?

- ¹ ☐ Less than six months
² ☐ Six months to less than one year
³ ☐ One to two years
⁴ ☐ More than two years

32. How does your present salary compare to what you would be making if your current position were not covered by the merit pay system?

- 1 ☐ I am making substantially more under merit pay.
- 2 ☐ I am making a little more under merit pay.
- 3 ☐ I am making about the same under merit pay.
- 4 ☐ I am making a little less under merit pay.
- 5 ☐ I am making substantially less under merit pay.
- 6 ☐ Don't know/can't judge.

33. During 1982, was the amount of money paid to good performers in your merit pay pool large enough to encourage you personally to perform well?

- 1 ☐ Definitely yes
- 2 ☐ Probably yes
- 3 ☐ Not sure
- 4 ☐ Probably not
- 5 ☐ Definitely not
- 6 ☐ Don't know/can't judge

34. Would you join the Senior Executive Service if you had the opportunity?

- 1 ☐ Definitely yes
- 2 ☐ Probably yes
- 3 ☐ Neither yes nor no
- 4 ☐ Probably no
- 5 ☐ Definitely not
- 6 ☐ Don't know/can't judge

Section IV

For Supervisors Only

35. Are you a supervisor (i.e., do you write performance appraisals for other employees)?

- 1 ☐ No
2 ☐ Not sure
3 ☐ Yes
- Please skip to Section V, page 10.

This section asks about your experience as a supervisor in dealing with employees who cannot or will not perform at a satisfactory level. As used below, the term formal disciplinary action includes: oral and written reprimands, denial of a within-grade increase, reassignment to lesser duties, downgrading, suspension, or removal. Please check ONE box for each question, unless otherwise directed.

36. Do you presently supervise one or more merit pay employees?

- 1 ☐ No
2 ☐ Not sure
3 ☐ Yes
- Please skip to Question 38.

37. Is merit pay, as it is currently operated in your work group, an effective tool for motivating employees to improve their performance?

- 1 ☐ Definitely yes
2 ☐ Probably yes
3 ☐ Neither yes nor no
4 ☐ Probably not
5 ☐ Definitely not
6 ☐ Don't know/can't judge

38. During the past 2 years, have you personally supervised any employees who did not perform at a satisfactory level?

- 1 ☐ No
2 ☐ Not sure
3 ☐ Yes
- Please skip to Question 42.

39. Was one of these poor performers a merit pay employee?

- 1 ☐ No
2 ☐ Not sure
3 ☐ Yes

40. What did you do about the employee's performance? (If more than one case, answer in terms of the most important one. If you answered "Yes" to Question 39, use that merit pay employee in answering this question. Check ALL boxes that apply.)

- 1 ☐ I counseled the employee and worked with him/her informally.
2 ☐ I gave the employee a less than satisfactory performance rating.
3 ☐ I initiated formal disciplinary action against him/her.
4 ☐ I took no action.
5 ☐ I have not yet decided what to do. → Please skip to Question 42.

41. How successful was the approach you took in getting the employee to perform satisfactorily?

- 1 ☐ Very successful
2 ☐ More successful than unsuccessful
3 ☐ Neither successful nor unsuccessful
4 ☐ More unsuccessful than successful
5 ☐ Very unsuccessful
6 ☐ Too soon to tell
7 ☐ Don't know/can't judge

42. If, in the future, you supervise an employee who does not perform satisfactorily, will you recommend formal disciplinary action if informal measures fail?

- 1 ☐ Very likely
- 2 ☐ More likely than unlikely
- 3 ☐ Neither likely nor unlikely
- 4 ☐ More unlikely than likely
- 5 ☐ Very unlikely
- 6 ☐ Don't know/can't judge

43. To what extent, if any, are the following an obstacle to taking disciplinary action against employees who do not improve their performance?

	To a very great extent					
	To a considerable extent				To some extent	
	To a little extent			To no extent		
	Don't know/can't judge					
	1	2	3	4	5	6
a. Lack of support from higher management.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Possibility of lowering morale of other workers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Results don't justify the time and effort required of me.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Too many reviews/appeals of decision to discipline.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Possibility of labor relations complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Possibility of discrimination complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. Possibility of "whistleblower" complaint.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h. Lack of technical/legal assistance while carrying out the action.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Section V

For Senior Executives Only

44. Are you in the Senior Executive Service?

- 1 ☐ Yes
 2 ☐ No —————→ Skip to Section VI p. 15.

This section asks about your experiences as a member of the Senior Executive Service. Please check ONE box for each question, unless otherwise directed.

45. Approximately how many senior executives are there in your immediate agency?

- 1 ☐ Less than 10
 2 ☐ 11-25
 3 ☐ 26-50
 4 ☐ 51-100
 5 ☐ 101-200
 6 ☐ over 200
 7 ☐ Don't know/can't judge

46. All things considered, do you think the advantages to you of being in the Senior Executive Service outweigh any disadvantages?

- 1 ☐ Definitely yes
 2 ☐ Probably yes
 3 ☐ Neither yes nor no
 4 ☐ Probably not
 5 ☐ Definitely not
 6 ☐ Don't know/can't judge

47. What impact, if any, does the Senior Executive Service as a system of management have on your ability to get you job done?

- 1 ☐ Greatly helps
 2 ☐ Somewhat helps
 3 ☐ Neither helps nor hinders
 4 ☐ Somewhat hinders
 5 ☐ Greatly hinders
 6 ☐ Don't know/can't judge

48. To what extent do you agree with the following statements about the Senior Executive Service?

a. Those who get SES bonuses earn them.

Strongly agree
 Agree
 Neither agree nor disagree
 Disagree
 Strongly disagree
 Don't know/
 can't judge

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

b. There are enough bonuses so that if I perform well I have a good chance of receiving one.

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

c. SES bonuses are distributed disproportionately to executives at the top of the agency.

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

d. Executives who work on projects of low visibility or low interest to top management have little chance of receiving an SES bonus regardless of how well they perform.

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

e. Pay compression, being paid the same as one's subordinates because of pay caps, will probably recur in the next few years.

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

51. Write in below the amount of money, if any, these geographic reassignments cost you above the amount you were reimbursed by the Government.

- My unreimbursed costs for reassignments in the past two years were approximately \$[.00] dollars.
(fill in)

My unreimbursed costs for reassignments in the three years prior to that were approximately \$[.00] dollars. (fill in)

This has occurred [] times in the past two years,
(fill in)
and [] times in the three years prior to that.
(fill in)

52. Arbitrary Actions: Check the appropriate box below, if, during the last two years, any of the actions listed have happened to you, or if you have personally observed any happen to another executive in your agency. (Do not check boxes if you have only heard about an incident in the news, or heard rumors. If none of the items apply, skip to Section VI on p. 15).

If you check any of the boxes below, write in on the line to the right of each the number of the ONE reason that best fits it from the following list:

- 1 ☐ "Buddy System".
- 2 ☐ Personality clashes.
- 3 ☐ Partisan Politics (Democratic or Republican party).
- 4 ☐ He/she was performing poorly.
- 5 ☐ They wanted to put in their own person.
- 6 ☐ Don't know/can't judge.
- 7 ☐ Other (Please explain on the last page of this questionnaire.)

Action:	This Happened To Me:	I Think the Cause Was:	I Saw This Happen To Another Executive in My Agency:	I Think The Cause Was:
1) "Shelving" an SES executive by detailing or reassigning him or her to lower level duties, or duties not SES in nature.	<input type="checkbox"/> 1	_____* *[Fill in number] [from list above.]	<input type="checkbox"/> 1	_____* *[Fill in number] [from list above.]
2) Trying to force an SES executive to resign by transferring him or her to an office in another geographic location.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
3) Arbitrarily lowering an SES executive's performance rating.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
4) Artificially structuring a reduction in force (RIF) in order to remove a specific SES executive.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
5) Arbitrarily moving a career SES executive out of a job to make room for a non-career candidate.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
6) Arbitrarily moving a career SES executive out of a job to make room for another career candidate.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
7) Arbitrarily promoting a career SES executive.				
8) Arbitrarily promoting a non-career SES executive.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
9) Arbitrarily demoting a career SES executive.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____
10) Arbitrarily demoting a non-career SES executive.	<input type="checkbox"/> 1	_____	<input type="checkbox"/> 1	_____

53. The objectives for the Senior Executive Service listed below are taken directly from the law. How successfully do you think these objectives are *currently* being met in your agency?

**HOW SUCCESSFULLY ARE THESE OBJECTIVES
FOR THE SES CURRENTLY MET IN
YOUR AGENCY?**

Completely successfully

Somewhat successfully

Neither successfully nor unsuccessfully

Somewhat unsuccessfully

Completely unsuccessfully

Don't know/can't judge

- 1) Basing compensation, retention, and tenure on executive success measured in terms of individual and organizational performance.
- 2) Assuring that senior executives are accountable and responsible for the effectiveness and productivity of employees under them.
- 3) Recognizing exceptional accomplishment.
- 4) Enabling the head of an agency to reassign senior executives to best accomplish the agency's mission.
- 5) Providing severance pay, early retirement, and placement assistance for senior executives who are removed from the Senior Executive Service for non-disciplinary reasons.
- 6) Protecting senior executives from arbitrary or capricious actions.
- 7) Providing for program continuity and policy advocacy in the management of public programs.
- 8) Ensuring accountability for honest, economical, and efficient Government.
- 9) Providing for the initial and continuing systematic development of highly competent senior executives.
- 10) Providing for an executive system which is guided by the public interest and free from improper political interference.
- 11) Providing a compensation system designed to attract and retain highly competent senior executives.

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

☐ 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6

54. Pick UP TO THREE of the objectives listed in Q. 53, and write in the spaces below what you think were the reasons for the success (or failure) to achieve these objectives. If possible, choose objectives you said your agency has been completely successful or completely unsuccessful in achieving.

Where they apply, please identify:

- The positive (or negative) effect of your agency's implementation, the Office of Personnel Management's actions, Congressional actions, and the law itself—what it does or doesn't do; and
 - Actions that would further achievement of any of the three objectives you chose.
-

Objective _____ (Fill in number)
(from Question 53).

Objective _____ (Fill in number)
(from Question 53).

Objective _____ (Fill in number)
(from Question 53).

Section VI

Personal and Job Information

This section asks for information about your job history and some general questions about you. (Please check ONE box for each question, unless otherwise directed.)

55. How many years have you been a Federal employee (excluding non-civilian military service)?

- ¹ ☐ Less than 1 year
- ² ☐ 1 to less than 4 years
- ³ ☐ 4 to less than 10 years
- ⁴ ☐ 10 to less than 30 years
- ⁵ ☐ 30 years or more

56. How long have you worked in your current position?

- ¹ ☐ Less than 6 months
- ² ☐ 6 months to less than 2 years
- ³ ☐ 2 to 5 years
- ⁴ ☐ 6 to 10 years
- ⁵ ☐ More than 10 years

57. Where is your job located? (Please check ALL that apply.)

- ¹ ☐ Within Washington, D.C., metropolitan area
- ² ☐ Outside Washington, D.C., metropolitan area
- ³ ☐ Agency headquarters
- ⁴ ☐ Field or regional installation

58. When will you be eligible to retire voluntarily (age 55 and 30 years of service, age 60 and 20 years of service, age 62 and 5 years of service)?

- ¹ ☐ I am eligible now
- ² ☐ 1 to 2 years
- ³ ☐ 3 to 5 years
- ⁴ ☐ 6 to 8 years
- ⁵ ☐ More than 8 years

59. How many years of full-time employment have you had outside the Federal Government within the past five years?

- ¹ ☐ None
- ² ☐ Less than 1 year
- ³ ☐ 1 to less than 4 years
- ⁴ ☐ 4 or more years

60. Are you?

- ¹ ☐ Male
- ² ☐ Female

61. Are you?

- ¹ ☐ American Indian or Alaskan Native
- ² ☐ Asian or Pacific Islander
- ³ ☐ Black, not of Hispanic origin
- ⁴ ☐ Hispanic
- ⁵ ☐ White, not of Hispanic origin
- ⁶ ☐ Other

62. What is your age?

- ¹ ☐ Under 20
- ² ☐ 20 to 29
- ³ ☐ 30 to 39
- ⁴ ☐ 40 to 49
- ⁵ ☐ 50 to 54
- ⁶ ☐ 55 to 59
- ⁷ ☐ 60 to 64
- ⁸ ☐ 65 or older

63. Which of the following awards have you received within the past two years:

- ¹ ☐ Cash award for sustained superior performance or outstanding performance rating.
- ² ☐ Cash award for special act or achievement.
- ³ ☐ Quality step increase.
- ⁴ ☐ Merit Pay Cash Award.
- ⁵ ☐ SES Performance Bonus.
- ⁶ ☐ SES Distinguished or Meritorious Rank Award.
- ⁷ ☐ Cash award for suggestion.
- ⁸ ☐ Cash award—don't know the reason.
- ⁹ ☐ Non-monetary award.
- ¹⁰ ☐ I have not received any of these awards.

64. What type of appointment are you serving under?

- 1 ☐ Career or career-conditional
- 2 ☐ Non-career
- 3 ☐ Schedule C
- 4 ☐ Other

65. What is your highest educational level?

- 1 ☐ Less than high school diploma
- 2 ☐ High school diploma or GED (Graduate Equivalency Degree)
- 3 ☐ High school diploma plus some college or technical training
- 4 ☐ Graduated from college (B.A., B.S., or other Bachelor's Degree)
- 5 ☐ Graduate or professional degree

66. What is your pay category or classification?

- 1 ☐ General schedule and similar (GS, GG, GW)
- 2 ☐ Merit pay (GM)
- 3 ☐ Wage system supervisor or leader (WG, or WS)
- 4 ☐ Wage system non-supervisory (WG, WD, WN, etc.)
- 5 ☐ Executive (ST, EX, ES, etc.)
- 6 ☐ Other

67. What is your pay grade?

- 1 ☐ 1-4
- 2 ☐ 5-8
- 3 ☐ 9-12
- 4 ☐ 13-14
- 5 ☐ 15
- 6 ☐ 16-18
- 7 ☐ SES
- 8 ☐ Other

68. Which of the following best describes your position? (Please check ONE box.)

- 1 ☐ Clerical or secretarial
- 2 ☐ Manual, service or trade
- 3 ☐ Technician (for example, accounting technician or electronics technician, etc.)
- 4 ☐ Professional (for example, accountant or engineer, etc.)
- 5 ☐ Other

} *Please skip to
Question 70.*

69. Which of the following best describes the kind of work you do?

- 1 ☐ Administration (personnel, budget, etc.)
- 2 ☐ Computer and information systems
- 3 ☐ Biological, mathematical, and physical sciences
- 4 ☐ Accounting, economics
- 5 ☐ Medical and health
- 6 ☐ Engineering
- 7 ☐ Legal
- 8 ☐ Other

70. Where do you work?

- 1 ☐ Agriculture
- 2 ☐ Air Force
- 3 ☐ Army
- 4 ☐ Defense Logistics Agency, and other DoD
- 5 ☐ Commerce
- 6 ☐ Education
- 7 ☐ Energy
- 8 ☐ Environmental Protection Agency
- 9 ☐ General Services Administration
- 10 ☐ Health and Human Services
- 11 ☐ Housing and Urban Development
- 12 ☐ Interior
- 13 ☐ Justice
- 14 ☐ Labor
- 15 ☐ NASA
- 16 ☐ Navy
- 17 ☐ Office of Personnel Management
- 18 ☐ Small Business Administration
- 19 ☐ State, AID or ICA
- 20 ☐ Transportation
- 21 ☐ Treasury
- 22 ☐ Veterans Administration
- 23 ☐ Other

Please use the space below to write in specific comments, referring to questions in which you have checked "other" as a response.

QUESTION NUMBER	YOUR COMMENTS

The number that appears to the right does not identify you individually. It is a code that indicates to us the statistical group that you share with other individuals. We need this code to identify the number of responses that have been returned from each group in this survey.

PROHIBITED PERSONNEL PRACTICES

The Civil Service Reform Act (Pub. L. No. 95-454, 92 Stat. 111 (1978)) forbids personnel actions based on the following eleven practices:

- 1) Discrimination based on race, color, religion, sex, age, national origin, handicapping condition, marital status or political affiliation;
- 2) Soliciting or considering employment recommendations not based on the individual's work performance, ability, aptitude, general qualifications, suitability, character, or loyalty;
- 3) Coercing the political activity of any person;
- 4) Deceiving or willfully obstructing anyone from competing for employment;
- 5) Influencing anyone to withdraw from competition for any position, whether to help or hurt anyone else's employment prospects;
- 6) Giving unauthorized preferential treatment to any employee or applicant;
- 7) Nepotism;
- 8) Taking or failing to take a personnel action as a reprisal against a whistleblower;
- 9) Taking or failing to take a personnel action as a reprisal for the exercise of any appeal right;
- 10) Discriminating on the basis of personal conduct which does not adversely affect the performance of any employee or applicant or the performance of others, except in case of criminal conviction for the conduct; and
- 11) Taking or failing to take any other personnel action if that would violate any law, rule, or regulation implementing or directly concerning the merit system principles.

For original text see 5 U.S.C. section 2302(b).

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